

**47:1A-5.1, 47:1A-5.3 et al**  
**LEGISLATIVE HISTORY CHECKLIST**

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**LAWS OF:** 2024                    **CHAPTER:** 16

**NJSA:** 47:1A-5.1, 47:1A-5.3 et al Makes various changes to process for access to government records; appropriates \$10 million.

**BILL NO:** S2930                    (Substituted for A4045 (2R))

**SPONSOR(S)** Sarlo, Paul A. and others

**DATE INTRODUCED:** 3/4/2024

**COMMITTEE:**                    **ASSEMBLY:** --

**SENATE:** Budget & Appropriations

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**    **ASSEMBLY:** 05/13/2024

**SENATE:** 05/13/2024

**DATE OF APPROVAL:** 6/5/2024

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (S2930 ScaSca (2R) enacted)

<b>ADVANCE LAW</b>	Yes
<b>PAMPHLET LAW</b>	Yes

**S2930**

<b>INTRODUCED BILL:</b> (Includes sponsor(s) statement)	Yes	
<b>REPRINT(S)</b>	Yes	SBA 03/11/2024 1R SBA 05/09/2024 1R
<b>TECHNICAL REVIW:</b>	No	
<b>COMMITTEE STATEMENT:</b> <b>ASSEMBLY:</b>	No	
<b>SENATE:</b>	Yes	Budget & Appropriations 03/11/2024 Budget & Appropriations 05/09/2024

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

<b>FLOOR AMENDMENT STATEMENT:</b>	No	
<b>LEGISLATIVE FISCAL ESTIMATE:</b>	Yes	03/13/2024 03/19/2024 05/15/2024

**A4045 (2R)**

<b>INTRODUCED BILL:</b> (Includes sponsor(s) statement)	Yes	
<b>REPRINT(S)</b>	Yes	ASL 03/11/2024 1R AAP 05/10/2024 2R
<b>TECHNICAL REVIEW:</b>	No	
<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b>	Yes State & Local Government Appropriations
	<b>SENATE:</b>	No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

<b>FLOOR AMENDMENT STATEMENT:</b>	No	
<b>LEGISLATIVE FISCAL ESTIMATE:</b>	Yes	03/11/2024 05/16/2024
<b>VETO MESSAGE:</b>	No	
<b>GOVERNOR'S PRESS RELEASE ON SIGNING:</b>	Yes	

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:** Yes

New Jersey Law Revision Commission Final Report Regarding the Open Public Meetings Act, December 17, 2020  
<https://static1.squarespace.com/static/596f60f4ebbd1a322db09e45/t/5ff325c310ee9f5922be8ee8/1751559993767/0pmaFR121720.pdf>

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Copies available upon request

Jelani Gibson - Susan K. Livio and Brent Johnson - For South Jersey Times, 'Murphy signs oft-decried recordsmeasure Towns argue it modernizes data requests, but critics see "a dark day for our democracy."', *South Jersey Times* (online), 7 Jun 2024 001 <<https://infoweb.newsbank.com/apps/news/document-view?p=NewsBank&docref=news/1998AF8EC45705E0>>

Jeff Edelstein, 'Gov. Phil Murphy does democracy dirty (JEFF EDELSTEIN COLUMN)', *Trentonian, The* (online), 7 Jun2024 <<https://infoweb.newsbank.com/apps/news/document-iew?p=NewsBank&docref=news/1998DBB35AE96B68>>

Jelani Gibson, Susan K. Livio and Brent Johnson NJ Advance Media, 'NJ just weakened its public records law. Here'swhy groups are alarmed.', *Jersey Journal, The* (online), 6 Jun 2024 008<<https://infoweb.newsbank.com/apps/news/document-view?p=NewsBank&docref=news/199859A0759BD8B0>>

Jelani Gibson, Susan K. Livio and Brent Johnson NJ Advance Media, 'NJ just weakened its public records law. Here'swhy groups are alarmed.', *Jersey Journal, The* (online), 6 Jun 2024 008<<https://infoweb.newsbank.com/apps/news/document-view?p=NewsBank&docref=news/199859A0759BD8B0>>

§7  
C.47:1A-5.1  
§8  
C.47:1A-5.3  
§9  
C.47:1A-7.1  
§10  
C.47:1A-5.2  
§11  
Approp.  
§12  
Note to §§1-10

P.L. 2024, CHAPTER 16, *approved June 5, 2024*  
Senate, No. 2930 (*Second Reprint*)

1 AN ACT concerning access to government records, amending and  
2 supplementing various parts of the statutory law, and making an  
3 appropriation.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 <sup>2</sup>**[**1. Section 1 of P.L.1963, c.73 (C.47:1A-1) is amended to read  
9 as follows:

10 1. The Legislature finds and declares it to be the public policy  
11 of this State that:

12 government records shall be readily accessible for inspection,  
13 copying, or examination by the citizens of this State, with certain  
14 exceptions, for the protection of the public interest, and any  
15 limitations on the right of access accorded by P.L.1963, c.73  
16 (C.47:1A-1 et seq.) as amended and supplemented, shall be  
17 construed in favor of the public's right of access;

18 all government records shall be subject to public access unless  
19 exempt from such access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as  
20 amended and supplemented; any other statute; resolution of either  
21 or both houses of the Legislature; regulation promulgated under the  
22 authority of any statute or Executive Order of the Governor;  
23 Executive Order of the Governor; Rules of Court; any federal law,  
24 federal regulation, or federal order;

25 a public agency has a responsibility and an obligation to  
26 safeguard from public access a citizen's personal information with  
27 which it has been entrusted, or information that might reasonably  
28 lead to disclosure of a person's personal information, when  
29 disclosure thereof would violate the citizen's reasonable expectation

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SBA committee amendments adopted March 11, 2024.

<sup>2</sup>Senate SBA committee amendments adopted May 9, 2024.

1 of privacy, or when the public agency has reason to believe that  
2 disclosure of such personal information may result in harassment,  
3 unwanted solicitation, identity theft, or opportunities for other  
4 criminal acts; and

5 nothing contained in P.L.1963, c.73 (C.47:1A-1 et seq.), as  
6 amended and supplemented, shall be construed as affecting in any  
7 way the common law right of access to any record, including but  
8 not limited to criminal investigatory records of a law enforcement  
9 agency.

10 (cf: P.L.2001, c.404, s.1)]<sup>2</sup>

11

12 <sup>2</sup>[2.] 1.<sup>2</sup> Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended  
13 to read as follows:

14 1. As used in P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and  
15 supplemented:

16 "Biotechnology" means any technique that uses living organisms,  
17 or parts of living organisms, to make or modify products, to improve  
18 plants or animals, or to develop micro-organisms for specific uses;  
19 including the industrial use of recombinant DNA, cell fusion, and  
20 novel bioprocessing techniques.

21 "Child protective investigator in the Division of Child Protection  
22 and Permanency" means an employee of the Division of Child  
23 Protection and Permanency in the Department of Children and  
24 Families whose primary duty is to investigate reports of child abuse  
25 and neglect, or any other employee of the Department of Children and  
26 Families whose duties include investigation, response to, or review of  
27 allegations of child abuse and neglect.

28 "Commercial purpose" means the direct or indirect use of any  
29 part of a government record for sale, resale, solicitation, rent, or  
30 lease of a service, or any use by which the user expects a profit  
31 either through commission, salary, or fee. "Commercial purpose"  
32 shall not include <sup>2</sup>[using, distributing, gathering, procuring,  
33 transmitting, compiling, editing, disseminating, or publishing of  
34 information or data] the use of a government record for any  
35 purpose<sup>2</sup> by <sup>2</sup>:

36 (1)<sup>2</sup> the news media, or any parent company, subsidiary, or  
37 affiliate of any news media, as defined by section 2 of P.L.1977,  
38 c.253 (C.2A:84A-21a) <sup>2</sup>[, or by] ;

39 (2)<sup>2</sup> any news, journalistic, educational, scientific, scholarly, or  
40 governmental organization <sup>2</sup>[, or by] ;

41 (3)<sup>2</sup> any person authorized to act on behalf of a candidate  
42 committee, joint candidate committee, political committee,  
43 continuing political committee, political party committee, or  
44 legislative leadership committee, as defined by section 3 of  
45 P.L.1973, c.83 (C.19:44A-3), registered with the New Jersey  
46 Election Law Enforcement Commission <sup>2</sup>;

47 (4) any labor organization;

1       (5) any contractor signatory to a collective bargaining agreement  
2 seeking information material to the enforcement of State or federal  
3 statutes or regulations regarding, but not limited to, wage and hour  
4 protections, workplace safety, or public procurement and public  
5 bidding, including, but not limited to, requests for certified payrolls  
6 or information about all bids submitted in response to a public  
7 procurement process subsequent to the deadline for the submission  
8 of all bids for that solicitation;

9       (6) any employee, agent, contractor, or affiliates of any entity  
10 identified in paragraphs (1) through (5) of this definition in this  
11 section; or

12       (7) any non-profit entity, including organizations or individuals  
13 qualified for exemption from federal taxation pursuant to section  
14 501(c)(3) of the federal Internal Revenue Code, 26 U.S.C. s.501(c)(3)  
15 and section 501(c)(4) of the federal Internal Revenue Code, 26 U.S.C.  
16 s.501(c)(4), when the entity does not sell, resell, solicit, rent, or lease a  
17 government record to an unaffiliated third party in a way in which the  
18 entity expects a fee<sup>2</sup>.

19       "Constituent" means any State resident or other person  
20 communicating with a member of the Legislature.

21       "Criminal investigatory record" means a record which is not  
22 required by law to be made, maintained or kept on file that is held by a  
23 law enforcement agency which pertains to any criminal investigation  
24 or related civil enforcement proceeding.

25       "Custodian of a government record" or "custodian" means in the  
26 case of a municipality, the municipal clerk and in the case of any other  
27 public agency, the officer officially designated by formal action of that  
28 agency's director or governing body, as the case may be.

29       <sup>2</sup>["Data broker" means a business that knowingly collects and sells  
30 to third parties the personal information of a consumer with whom the  
31 business does not have a direct relationship.]"<sup>2</sup>

32       "Government record" or "record" means any paper, written or  
33 printed book, document, drawing, map, plan, photograph, microfilm,  
34 data processed or image processed document, information stored or  
35 maintained electronically or by sound-recording or in a similar device,  
36 or any copy thereof, that has been made, maintained or kept on file in  
37 the course of his or its official business by any officer, commission,  
38 agency or authority of the State or of any political subdivision thereof,  
39 including subordinate boards thereof, or that has been received in the  
40 course of his or its official business by any such officer, commission,  
41 agency, or authority of the State or of any political subdivision thereof,  
42 including subordinate boards thereof. The terms shall not include  
43 inter-agency or intra-agency advisory, consultative, **[or]** <sup>2</sup>or<sup>2</sup>  
44 deliberative <sup>2</sup>[, or draft]"<sup>2</sup> material <sup>2</sup>[, including notes generated and  
45 used to prepare final reports, documents, or records.]"<sup>2</sup>

46       <sup>2</sup>"Labor organization" means any organization which exists and is  
47 constituted for the purpose, in whole or in part, of collective

1 bargaining, or of dealing with employers concerning grievances, terms  
2 or conditions of employment, or of other mutual aid or protection in  
3 connection with employment<sup>2</sup>.

4 A government record shall not include the following information  
5 which is deemed to be confidential for the purposes of P.L.1963, c.73  
6 (C.47:1A-1 et seq.) as amended and supplemented:

7 information received by a member of the Legislature from a  
8 constituent or information held by a member of the Legislature  
9 concerning a constituent, including, but not limited to, information in  
10 written form or contained in any e-mail or computer data base, or in  
11 any telephone record whatsoever, unless it is information the  
12 constituent is required by law to transmit;

13 any memorandum, correspondence, notes, report or other  
14 communication prepared by, or for, the specific use of a member of the  
15 Legislature in the course of the member's official duties, except that  
16 this provision shall not apply to an otherwise publicly-accessible  
17 report which is required by law to be submitted to the Legislature or its  
18 members;

19 any copy, reproduction or facsimile of any photograph, negative or  
20 print, including instant photographs and videotapes of the body, or any  
21 portion of the body, of a deceased person, taken by or for the medical  
22 examiner at the scene of death or in the course of a post mortem  
23 examination or autopsy made by or caused to be made by the medical  
24 examiner except <sup>2</sup>]:

25 when used in a criminal action or proceeding in this State which  
26 relates to the death of that person,

27 for the use as a court of this State permits, by order after good  
28 cause has been shown and after written notification of the request for  
29 the court order has been served at least five days before the order is  
30 made upon the county prosecutor for the county in which the post  
31 mortem examination or autopsy occurred,

32 for use in the field of forensic pathology or for use in medical or  
33 scientific education or research, or]

34 for use by a legal next of kin, a legal representative, or an  
35 attending physician of the deceased person, for use as a court of this  
36 State permits, or<sup>2</sup> for use by any law enforcement agency in this State  
37 or any other state or federal law enforcement agency;

38 criminal investigatory records;

39 the portion of any criminal record concerning a person's detection,  
40 apprehension, arrest, detention, trial or disposition for unlawful  
41 manufacturing, distributing, or dispensing, or possessing or having  
42 under control with intent to manufacture, distribute, or dispense,  
43 marijuana or hashish in violation of paragraph (11) of subsection b. of  
44 N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation  
45 of paragraph (12) of subsection b. of that section, or a violation of  
46 either of those paragraphs and a violation of subsection a. of section 1  
47 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of  
48 P.L.1997, c.327 (C.2C:35-7.1) for distributing, dispensing, or

1 possessing, or having under control with intent to distribute or  
2 dispense, on or within 1,000 feet of any school property, or on or  
3 within 500 feet of the real property comprising a public housing  
4 facility, public park, or public building, or for obtaining, possessing,  
5 using, being under the influence of, or failing to make lawful  
6 disposition of marijuana or hashish in violation of paragraph (3) or (4)  
7 of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-10,  
8 or for a violation of any of those provisions and a violation of  
9 N.J.S.2C:36-2 for using or possessing with intent to use drug  
10 paraphernalia with that marijuana or hashish;

11 victims' records, except that a victim of a crime shall have access  
12 to the victim's own records;

13 any written request by a crime victim for a record to which the  
14 victim is entitled to access as provided in this section, including, but  
15 not limited to, any law enforcement agency report, domestic violence  
16 offense report, and temporary or permanent restraining order;

17 personal firearms records, except for use by any person authorized  
18 by law to have access to these records or for use by any government  
19 agency, including any court or law enforcement agency, for purposes  
20 of the administration of justice;

21 personal identifying information received by the Division of Fish  
22 and Wildlife in the Department of Environmental Protection in  
23 connection with the issuance of any license authorizing hunting with a  
24 firearm<sup>1</sup>. For the purposes of this paragraph, personal identifying  
25 information shall include, but not be limited to, identity, name,  
26 address, social security number, telephone number, fax number,  
27 driver's license number, email address, or social media address of any  
28 applicant or licensee<sup>2</sup>;

29 trade secrets and proprietary commercial or financial information  
30 obtained from any source. For the purposes of this paragraph, trade  
31 secrets shall include <sup>3</sup>data processing<sup>4</sup> software, <sup>5</sup>applications, and  
32 <sup>6</sup>code<sup>7</sup> obtained by a public body under a licensing agreement which  
33 prohibits its disclosure;

34 any record within the attorney-client privilege. This paragraph  
35 shall not be construed as exempting from access attorney or consultant  
36 bills or invoices except that such bills or invoices may be redacted to  
37 remove any information protected by the attorney-client privilege;

38 administrative or technical information regarding computer  
39 hardware, <sup>8</sup>tablets, telephones, <sup>9</sup>and<sup>10</sup> <sup>11</sup>electronic computing<sup>12</sup> devices,  
40 <sup>13</sup>or<sup>14</sup> <sup>15</sup>software <sup>16</sup>and<sup>17</sup> <sup>18</sup>applications, and networks <sup>19</sup>which, if disclosed,  
41 would jeopardize computer security<sup>20</sup> <sup>21</sup>or devices which operate on or  
42 as a part of a computer network or related technologies within the  
43 same, which shall include system logs, event logs, transaction logs,  
44 tracing logs, or any logs which are reasonably construed to be similar  
45 to the same and generated by the devices or servers covered within this  
46 paragraph, which, if disclosed, could jeopardize computer security<sup>22</sup> ,  
47 <sup>23</sup>or related technologies;

- 1 emergency or security information or procedures for any buildings  
2 or facility which, if disclosed, would jeopardize security of the  
3 building or facility or persons therein;
- 4 security measures and surveillance techniques which, if disclosed,  
5 would create a risk to the safety of persons, property, electronic data or  
6 software;
- 7 security alarm system activity and access reports, including video  
8 footage, for any public building, facility, or grounds unless the request  
9 identifies a specific incident that occurred, <sup>2</sup>or<sup>2</sup> a specific date <sup>2</sup>[,]<sup>2</sup>  
10 and <sup>2</sup>[a]<sup>2</sup> limited time period at a particular public building, facility,  
11 or grounds <sup>2</sup>, and is deemed not to compromise the integrity of the  
12 security system by revealing capabilities and vulnerabilities of the  
13 system<sup>2</sup> ;
- 14 information which, if disclosed, would give an advantage to  
15 competitors or bidders, including detailed or itemized cost estimates  
16 prior to bid opening;
- 17 information generated by or on behalf of public employers or  
18 public employees in connection with any sexual harassment complaint  
19 filed with a public employer or with any grievance filed by or against  
20 an individual or in connection with collective negotiations, including  
21 documents and statements of strategy or negotiating position;
- 22 <sup>2</sup>[information related to strategies or negotiating positions that  
23 would unfairly prejudice or impair contract negotiations;]<sup>2</sup>
- 24 information which is a communication between a public agency  
25 and its insurance carrier, administrative service organization or risk  
26 management office;
- 27 information which is to be kept confidential pursuant to court  
28 order;
- 29 any copy of form DD-214, NGB-22, or that form, issued by the  
30 United States Government, or any other certificate of honorable  
31 discharge, or copy thereof, from active service or the reserves of a  
32 branch of the Armed Forces of the United States, or from service in the  
33 organized militia of the State, that has been filed by an individual with  
34 a public agency, except that a veteran or the veteran's spouse or  
35 surviving spouse shall have access to the veteran's own records;
- 36 any copy of an oath of allegiance, oath of office or any affirmation  
37 taken upon assuming the duties of any public office, or that oath or  
38 affirmation, taken by a current or former officer or employee in any  
39 public office or position in this State or in any county or municipality  
40 of this State, including members of the Legislative Branch, Executive  
41 Branch, Judicial Branch, and all law enforcement entities, except that  
42 the full name, title, and oath date of that person contained therein shall  
43 not be deemed confidential;
- 44 that portion of any document which discloses the social security  
45 number, credit card number, **[unlisted]** debit card number, bank  
46 account information, month and day of birth, <sup>2</sup>any personal<sup>2</sup> email  
47 address <sup>2</sup>required by a public agency for government applications,

1 services, or programs<sup>2</sup> , any telephone number or driver license  
2 number of any person, or, in accordance with section 2 of P.L.2021,  
3 c.371 (C.47:1B-2), that portion of any document which discloses the  
4 home address, whether a primary or secondary residence, of any  
5 active, formerly active, or retired judicial officer, law enforcement  
6 officer, child protective investigator in the Division of Child Protection  
7 and Permanency, or prosecutor, or, as defined in section 1 of P.L.2021,  
8 c.371 (C.47:1B-1), any immediate family member thereof; except for  
9 use by any government agency, including any court or law  
10 enforcement agency, in carrying out its functions, or any private  
11 person or entity acting on behalf thereof, or any private person or  
12 entity seeking to enforce payment of court-ordered child support;  
13 except with respect to the disclosure of driver information by the New  
14 Jersey Motor Vehicle Commission as permitted by section 2 of  
15 P.L.1997, c.188 (C.39:2-3.4); except with respect to the disclosure of  
16 information included in records and documents maintained by the  
17 Department of the Treasury in connection with the State's business  
18 registry programs; and except that a social security number contained  
19 in a record required by law to be made, maintained or kept on file by a  
20 public agency shall be disclosed when access to the document or  
21 disclosure of that information is not otherwise prohibited by State or  
22 federal law, regulation or order or by State statute, resolution of either  
23 or both houses of the Legislature, Executive Order of the Governor,  
24 rule of court or regulation promulgated under the authority of any  
25 statute or executive order of the Governor;

26 that portion of any document that discloses the personal identifying  
27 information of any person provided to a public agency for the sole  
28 purpose of receiving official notifications;

29 a list of persons identifying themselves as being in need of special  
30 assistance in the event of an emergency maintained by a municipality  
31 for public safety purposes pursuant to section 1 of P.L.2017, c.266  
32 (C.40:48-2.67), and their personal identifying information; [and]

33 a list of persons identifying themselves as being in need of special  
34 assistance in the event of an emergency maintained by a county for  
35 public safety purposes pursuant to section 6 of P.L.2011, c.178  
36 (C.App.A:9-43.13), and their personal identifying information;

37 that portion of any document that requires and would disclose  
38 personal identifying information of persons under the age of 18 years,  
39 <sup>2</sup>[including names,]<sup>2</sup> except with respect to the disclosure of driver  
40 information by the New Jersey Motor Vehicle Commission as  
41 permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4) or the  
42 disclosure of driver information to any insurer or insurance support  
43 organization, or a self-insured entity, or its agents, employees, or  
44 contractors, for use in connection with claims investigation activities,  
45 antifraud activities, rating, or underwriting, and except with respect to  
46 the disclosure of voter information on voter and election records  
47 pursuant to section <sup>2</sup>[11] <sup>8</sup> of P.L. , c. (C. ) (pending before  
48 the Legislature as this bill);

- 1 personal identifying information disclosed on domestic animal  
2 permits, licenses, and registration;  
3 structured reference data that helps to sort and identify attributes of  
4 the information it describes, referred to as metadata, or any  
5 extrapolation or compilation thereof<sup>2</sup>, which shall include the SMTP  
6 header properties of emails, except that portion that identifies  
7 authorship, identity of editor, and time of change<sup>2</sup>;
- 8 New Jersey State Firemen's Association financial relief  
9 applications;  
10 owner and maintenance manuals;  
11 data classified under the "Health Insurance Portability and  
12 Accountability Act of 1996," Pub.L.104-191;  
13 <sup>2</sup>**[logs of telephone calls, emails, or texts;]**<sup>2</sup> and  
14 <sup>2</sup>**[electronic or paper calendars for individuals]**  
15 any indecent or graphic images of a person's intimate parts, as  
16 defined in section 10 of P.L. , c. (C. ) (pending before the  
17 Legislature as this bill), that are captured in a photograph or video  
18 recording without the prior written consent of the subject of the  
19 photograph or video footage, as defined in section 10 of P.L. , c.  
20 (C. ) (pending before the Legislature as this bill)<sup>2</sup>.
- 21 A government record shall not include, with regard to any public  
22 institution of higher education, the following information which is  
23 deemed to be privileged and confidential:
- 24 pedagogical, scholarly and/or academic research records and/or the  
25 specific details of any research project conducted under the auspices of  
26 a public higher education institution in New Jersey, including, but not  
27 limited to, research, development information, testing procedures, or  
28 information regarding test participants, related to the development or  
29 testing of any pharmaceutical or pharmaceutical delivery system,  
30 except that a custodian may not deny inspection of a government  
31 record or part thereof that gives the name, title, expenditures, source  
32 and amounts of funding and date when the final project summary of  
33 any research will be available;
- 34 test questions, scoring keys and other examination data pertaining  
35 to the administration of an examination for employment or academic  
36 examination;
- 37 records of pursuit of charitable contributions or records containing  
38 the identity of a donor of a gift if the donor requires non-disclosure of  
39 the donor's identity as a condition of making the gift provided that the  
40 donor has not received any benefits of or from the institution of higher  
41 education in connection with such gift other than a request for  
42 memorialization or dedication;
- 43 valuable or rare collections of books or documents obtained by  
44 gift, grant, bequest or devise conditioned upon limited public access;  
45 information contained on individual admission applications; and  
46 information concerning student records or grievance or

1 disciplinary proceedings against a student to the extent disclosure  
2 would reveal the identity of the student.

3 <sup>2</sup>Nothing in this section shall be construed to limit the  
4 requirements to provide and make publicly available the  
5 information pursuant to section 5 of P.L.1963, c.150 (C.34:11-  
6 56.29) and section 5 of P.L.1999, c.238 (C.34:11-56.52).<sup>2</sup>

7 "Judicial officer" means any active, formerly active, or retired  
8 federal, state, county, or municipal judge, including a judge of the Tax  
9 Court and any other court of limited jurisdiction established, altered, or  
10 abolished by law, a judge of the Office of Administrative Law, a judge  
11 of the Division of Workers' Compensation, and any other judge  
12 established by law who serves in the executive branch.

13 "Law enforcement agency" means a public agency, or part thereof,  
14 determined by the Attorney General to have law enforcement  
15 responsibilities.

16 "Law enforcement officer" means a person whose public duties  
17 include the power to act as an officer for the detection, apprehension,  
18 arrest, and conviction of offenders against the laws of this State.

19 "Member of the Legislature" means any person elected or selected  
20 to serve in the New Jersey Senate or General Assembly.

21 "Personal firearms record" means any information contained in a  
22 background investigation conducted by the chief of police, the county  
23 prosecutor, or the Superintendent of State Police, of any applicant for a  
24 permit to purchase a handgun, firearms identification card license, or  
25 firearms registration; any application for a permit to purchase a  
26 handgun, firearms identification card license, or firearms registration;  
27 any document reflecting the issuance or denial of a permit to purchase  
28 a handgun, firearms identification card license, or firearms  
29 registration; and any permit to purchase a handgun, firearms  
30 identification card license, or any firearms license, certification,  
31 certificate, form of register, or registration statement. For the purposes  
32 of this paragraph, information contained in a background investigation  
33 shall include, but not be limited to, identity, name, address, social  
34 security number, [phone] telephone number, fax number, driver's  
35 license number, email address, or social media address of any  
36 applicant, licensee, registrant, or permit holder.

37 <sup>2</sup>["Personal identifying information" means information that may  
38 be used, alone or in conjunction with any other information, to identify  
39 a specific individual. For purposes of this act, personal identifying  
40 information shall include, but shall not be limited to, the following  
41 data elements: name, social security number, credit card number, debit  
42 card number, bank account information, month and day of birth, email  
43 address, any telephone number, the street address portion of any  
44 person's primary or secondary home address, or driver license number  
45 of any person.]<sup>2</sup>

46 "Public agency" or "agency" means any of the principal  
47 departments in the Executive Branch of State Government, and any

1 division, board, bureau, office, commission or other instrumentality  
2 within or created by such department; the Legislature of the State and  
3 any office, board, bureau or commission within or created by the  
4 Legislative Branch; and any independent State authority, commission,  
5 instrumentality or agency. The terms also mean any political  
6 subdivision of the State or combination of political subdivisions, and  
7 any division, board, bureau, office, commission or other  
8 instrumentality within or created by a political subdivision of the State  
9 or combination of political subdivisions, and any independent  
10 authority, commission, instrumentality or agency created by a political  
11 subdivision or combination of political subdivisions.

12 "Victim of a crime" means a person who has suffered personal or  
13 psychological injury or death or incurs loss of or injury to personal or  
14 real property as a result of a crime, or if such a person is deceased or  
15 incapacitated, a member of that person's immediate family.

16 "Victim's record" means an individually identifiable file or  
17 document held by a victims' rights agency which pertains directly to a  
18 victim of a crime except that a victim of a crime shall have access to  
19 the victim's own records.

20 "Victims' rights agency" means a public agency, or part thereof,  
21 the primary responsibility of which is providing services, including,  
22 but not limited to, food, shelter, or clothing, medical, psychiatric,  
23 psychological or legal services or referrals, information and referral  
24 services, counseling and support services, or financial services to  
25 victims of crimes, including victims of sexual assault, domestic  
26 violence, violent crime, child endangerment, child abuse or child  
27 neglect, and the Victims of Crime Compensation Board, established  
28 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as the  
29 Victims of Crime Compensation Office pursuant to P.L.2007, c.95  
30 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.

31 <sup>2</sup>As used in this section, "personal identifying information" means  
32 information that may be used, alone or in conjunction with any other  
33 information, to identify a specific individual. Personal identifying  
34 information shall include, but shall not be limited to, the following  
35 data elements: name, social security number, credit card number, debit  
36 card number, bank account information, month and day of birth, any  
37 personal email address required by a public agency for government  
38 applications, services, or programs, personal telephone number, the  
39 street address portion of any person's primary or secondary home  
40 address, or driver license number of any person. "Personal identifying  
41 information" shall not include any street address, mailing address,  
42 email address, or telephone number of a public agency. "Personal  
43 identifying information" shall not include the email address of a  
44 governmental affairs agent.<sup>2</sup>

45 (cf: P.L.2023, c.113, s.1)

46

47 <sup>2</sup>**[3.] 2.**<sup>2</sup> Section 6 of P.L.2001, c.404 (C.47:1A-5) is amended to  
48 read as follows:

1           6. a. The custodian of a government record shall permit the record  
2 to be inspected, examined, and copied by any person during regular  
3 business hours; or in the case of a municipality having a population of  
4 5,000 or fewer according to the most recent federal decennial census, a  
5 board of education having a total district enrollment of 500 or fewer,  
6 or a public authority having less than \$10 million in assets, during not  
7 less than six regular business hours over not less than three business  
8 days per week or the entity's regularly-scheduled business hours,  
9 whichever is less; unless a government record is exempt from public  
10 access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and  
11 supplemented; any other statute; resolution of either or both houses of  
12 the Legislature; regulation promulgated under the authority of any  
13 statute or Executive Order of the Governor; Executive Order of the  
14 Governor; Rules of Court; any federal law; federal regulation; or  
15 federal order. Prior to allowing access to any government record, the  
16 custodian thereof shall redact from that record any information which  
17 discloses the social security number, credit card number, **[unlisted]**  
18 <sup>2</sup>personal<sup>2</sup> telephone number, or driver license number of any person,  
19 or, in accordance with section 2 of P.L.2021, c.371 (C.47:1B-2), the  
20 home address, whether a primary or secondary residence, of any  
21 active, formerly active, or retired judicial officer, prosecutor, law  
22 enforcement officer, or child protective investigator in the Division of  
23 Child Protection and Permanency, or, as defined in section 1 of  
24 P.L.2021, c.371 (C.47:1B-1), any immediate family member thereof;  
25 except for use by any government agency, including any court or law  
26 enforcement agency, in carrying out its functions, or any private  
27 person or entity acting on behalf thereof, or any private person or  
28 entity seeking to enforce payment of court-ordered child support;  
29 except with respect to the disclosure of driver information by the New  
30 Jersey Motor Vehicle Commission as permitted by section 2 of  
31 P.L.1997, c.188 (C.39:2-3.4); and except that a social security number  
32 contained in a record required by law to be made, maintained or kept  
33 on file by a public agency shall be disclosed when access to the  
34 document or disclosure of that information is not otherwise prohibited  
35 by State or federal law, regulation or order or by State statute,  
36 resolution of either or both houses of the Legislature, Executive Order  
37 of the Governor, rule of court or regulation promulgated under the  
38 authority of any statute or executive order of the Governor. <sup>2</sup>**[Prior to**  
39 **allowing access to any government record, the custodian shall redact**  
40 **from that record any information which discloses, or which might**  
41 **reasonably lead to disclosure of the telephone number, email address,**  
42 **or any medical, financial, or personal information of a member of the**  
43 **public when the disclosure thereof would violate the citizen's**  
44 **reasonable expectation of privacy or when the public agency has a**  
45 **reason to believe that disclosure of such personal information may**  
46 **result in harassment, unwanted solicitation, identity theft, or**  
47 **opportunities for other criminal acts.]]<sup>2</sup>** Except where an agency can  
48 demonstrate an emergent need, a regulation that limits access to

1 government records shall not be retroactive in effect or applied to deny  
2 a request for access to a government record that is pending before the  
3 agency, the council or a court at the time of the adoption of the  
4 regulation.

5 b. (1) A copy or copies of a government record may be purchased  
6 by any person upon payment of the fee prescribed by law or  
7 regulation.

8 Except as otherwise provided by law or regulation and except as  
9 provided in paragraph (2) of this subsection, the fee assessed for the  
10 duplication of a government record embodied in the form of printed  
11 matter shall be \$0.05 per letter size page or smaller, and \$0.07 per  
12 legal size page or larger. **【**If a public agency can demonstrate that its  
13 actual costs for duplication of a government record exceed the  
14 foregoing rates, the public agency shall be permitted to charge the  
15 actual cost of duplicating the record. The actual cost of duplicating the  
16 record, upon which all copy fees are based, shall be the cost of  
17 materials and supplies used to make a copy of the record, but shall not  
18 include the cost of labor or other overhead expenses associated with  
19 making the copy except as provided for in subsection c. of this  
20 section.**】** Access to electronic records and non-printed materials shall  
21 be provided free of charge, but the public agency may charge for the  
22 actual costs of any needed supplies such as computer discs. No fee  
23 shall be charged if the request is completed by directing the requestor  
24 to the requested government record that is available on the public  
25 agency's website or the website of another public agency.

26 (2) No fee shall be charged to a victim of a crime for a copy or  
27 copies of a record to which the crime victim is entitled to access, as  
28 provided in section 1 of P.L.1995, c.23 (C.47:1A-1.1).

29 c. Whenever the nature, format, manner of collation, or volume of  
30 a government record embodied in the form of printed matter to be  
31 inspected, examined, or copied pursuant to this section is such that the  
32 record cannot be reproduced by ordinary document copying equipment  
33 in ordinary business size or involves an extraordinary expenditure of  
34 time and effort to accommodate the request, the public agency may  
35 charge, in addition to the actual cost of duplicating the record, a  
36 special service charge that **【**shall be reasonable and**】** shall be based  
37 upon the actual direct cost of providing the copy or copies **【**; provided,  
38 however, that in the case of a municipality, rates for the duplication of  
39 particular records when the actual cost of copying exceeds the  
40 foregoing rates shall be established in advance by ordinance**】**, and  
41 such special service charge shall be <sup>2</sup>【presumed to be】<sup>2</sup> reasonable.  
42 <sup>2</sup>The custodian shall provide the requestor with an explanation for and  
43 an itemized list of the fees or charges<sup>2</sup>.

44 The requestor shall have the opportunity to review and object to  
45 **【**the**】** any fee or charge prior to it being incurred. <sup>2</sup>There shall be a  
46 rebuttable presumption that the fees or charges presented by the  
47 custodian are reasonable. If the requestor objects to the fees or

1 charges, the burden of proof shall be on the requestor to demonstrate  
2 that the fees or charges are unreasonable.<sup>2</sup>

3 d. A custodian shall permit access to a government record and  
4 provide a copy thereof in the medium or format requested if the public  
5 agency maintains the record in that medium or format. If the public  
6 agency does not maintain the record in the medium or format  
7 requested, the custodian ~~shall~~<sup>2</sup> [, at the custodian's discretion, may]  
8 shall<sup>2</sup> [either]<sup>2</sup> convert the record to the medium or format requested  
9 [or provide a copy in some other meaningful medium or format.]<sup>2</sup>  
10 [If a request is for a record: (1) in a medium not routinely used by the  
11 agency; (2) not routinely developed or maintained by an agency; or (3)  
12 requiring a substantial amount of manipulation or programming of  
13 information technology, the agency may charge, in addition to the  
14 actual cost of duplication, a special charge that shall be reasonable and  
15 shall be based on the cost for any extensive use of information  
16 technology, or for the labor cost of personnel providing the service,  
17 that is actually incurred by the agency or attributable to the agency for  
18 the programming, clerical, and supervisory assistance required, or  
19 both.]<sup>2</sup> , if the medium or format is available to the public agency and  
20 does not require a substantial amount of manipulation or programming  
21 of information technology, or the services of a third party vendor. If  
22 the public agency converts the record to the medium or format  
23 requested, the agency may charge, in addition to the actual cost of  
24 duplication, a special service fee that shall be reasonable and shall be  
25 based on the cost for any extensive use of information technology, or  
26 for the labor cost of personnel providing the service, that is actually  
27 incurred by the agency or attributable to the agency for the  
28 programming, clerical, and supervisory assistance required, or both.<sup>2</sup>  
29 If the public agency does not maintain the record in the electronic  
30 medium or format requested,<sup>2</sup> and the medium or format is not  
31 available to the public agency without a substantial amount of  
32 manipulation or programming of information technology,<sup>2</sup> the  
33 custodian shall be under no obligation to convert the record to the  
34 electronic medium or format requested but shall, at a minimum,  
35 provide a copy in the<sup>2</sup> electronic<sup>2</sup> format maintained by the public  
36 agency.

37 e. Immediate access ordinarily shall be granted to budgets, bills,  
38 vouchers, contracts, including collective negotiations agreements and  
39 individual employment contracts, and public employee salary and  
40 overtime information. Immediate access to government records shall  
41 not be required to be granted for documents over<sup>2</sup> [12]<sup>24</sup> months  
42 old.

43 Government records shall be made available to the public on a  
44 publicly available website to the extent feasible. A public agency may  
45 enter into shared services agreements for providing certain government  
46 records electronically.

1        If the government record<sup>2</sup> in a complete and unabridged form<sup>2</sup> is  
2 readily available on a public agency's website, the custodian may  
3 require the requestor to obtain the record from the website, which shall  
4 contain a search bar feature on its home page. The custodian shall  
5 provide the requestor with directions to assist in finding the record on  
6 the website, including providing the website URL address and the  
7 location on the website of the search bar, menu button, tab, link,  
8 landing page or equivalent, which contains the requested record.  
9 <sup>1</sup> [The request shall be deemed fulfilled upon notification by the  
10 custodian to the requestor of the availability and location on the  
11 website of the requested information.] If the requestor does not  
12 respond to the custodian within seven<sup>2</sup> business<sup>2</sup> days of the custodian  
13 providing information about a record on the public agency's website,  
14 the request shall be deemed fulfilled<sup>2</sup> unless the version of the  
15 government record on the public agency's website fails to contain non-  
16 protected information contained in the original record, in which case  
17 the custodian shall produce the original version of the record subject to  
18 any redactions required by law<sup>2</sup>. If, after the custodian has provided  
19 instructions on how to find a record on a public agency's website, the  
20 requestor is unable to find the record upon making a good faith effort  
21 to locate the record on the website, the requestor shall notify the  
22 custodian within seven<sup>2</sup> business<sup>2</sup> days of the custodian providing the  
23 information. Upon receiving such a request for assistance from a  
24 requestor, the custodian shall make a reasonable attempt to assist the  
25 requestor in finding the record on the website within seven<sup>2</sup> business<sup>2</sup>  
26 days of the requestor notifying the custodian.<sup>1</sup> <sup>2</sup> If the requestor is still  
27 unable to locate the record and requests a physical copy, the custodian  
28 shall provide the requestor with a physical copy of the record, for a fee  
29 not exceeding two times the cost of the production of the document.  
30 The custodian shall provide the requestor with the physical copy of the  
31 record within seven business days of the request for a physical copy.<sup>2</sup>

32        f. The custodian of a public agency shall adopt <sup>2</sup>[a] the<sup>2</sup> form  
33 <sup>2</sup>established by the Government Records Council pursuant to  
34 subsection b. of section 8 of P.L.2001, c.404 (C.47:1A-7),<sup>2</sup> for the use  
35 of any person who requests access to a government record held or  
36 controlled by the public agency. The form shall provide space for the  
37 name, address, email address and [phone] telephone number of the  
38 requestor and a brief description of the government record sought. A  
39 request shall be submitted by a requestor in the form adopted by the  
40 custodian and the custodian may deny a request that is <sup>2</sup>[not submitted  
41 in the form adopted by the custodian] incomplete, except that a  
42 requestor indicating the request is being submitted anonymously shall  
43 not be grounds for denial. A completed form adopted by the  
44 custodian, a letter, or an email from a requestor including all of the  
45 information required on the adopted form shall suffice in place of a  
46 completed form as a valid government record request. If the letter or

1 email from a requestor includes substantially more information than  
2 required on the adopted form and requires more than reasonable effort  
3 to clarify the information, the custodian may deny the request. If a  
4 letter or an email from a requestor does not include all of the  
5 information required on the adopted form, the custodian may deny the  
6 record request<sup>2</sup>. A request may be submitted anonymously provided,  
7 however, that anonymous requestors shall not be permitted to institute  
8 proceedings pursuant to section 7 of P.L.2001, c.404 (C.47:1A-6). <sup>2</sup>A  
9 request that is submitted anonymously shall not be considered  
10 incomplete.<sup>2</sup>

11 The form also shall include space for a requestor to certify whether  
12 the government record will be used by that requestor or another person  
13 for a commercial purpose, and the requestor shall be required to  
14 provide this information for the request to be fulfilled.

15 <sup>2</sup>[All requests by a data broker or a requestor who is making a  
16 request on behalf of and for the use of a data broker shall be denied.  
17 The form also shall include space for a requestor to certify that the  
18 requestor is not a data broker or is not making the request on behalf of  
19 or for the use of a data broker, and the requestor shall be required to  
20 provide this information for the request to be fulfilled.

21 Data obtained through a records request shall not be sold.]<sup>2</sup>

22 The form shall include space for the custodian to indicate which  
23 record will be made available, when the record will be available, and  
24 the fees to be charged. The form shall also include the following: (1)  
25 specific directions and procedures for requesting a record; (2) a  
26 statement as to whether prepayment of fees or a deposit is required; (3)  
27 the time period within which the public agency is required by  
28 P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented, to  
29 make the record available; (4) a statement of the requestor's right to  
30 challenge a decision by the public agency to deny access and the  
31 procedure for filing an appeal; (5) space for the custodian to list  
32 reasons if a request is denied in whole or in part; (6) space for the  
33 requestor to sign and date the form; (7) space for the custodian to sign  
34 and date the form if the request is fulfilled or denied. The custodian  
35 may require a deposit against costs for reproducing documents sought  
36 through **[an anonymous]** a request whenever the custodian anticipates  
37 that the information thus requested will cost in excess of \$5 to  
38 reproduce.

39 Custodians <sup>2</sup>who have adopted electronic government record  
40 request forms<sup>2</sup> shall provide directions on how to submit requests for  
41 government records, including any required forms, on the public  
42 agency's website.

43 Custodians shall be permitted to provide an electronic response to  
44 any electronic records request if government records are available  
45 electronically.

46 g. A request for access to a government record shall be in writing  
47 and hand-delivered, mailed, transmitted electronically, or otherwise

1 conveyed to the appropriate custodian. A public agency may make  
2 available to the public on its website an online form, portal, or  
3 software for transmitting requests electronically. <sup>2</sup>The form  
4 established by the Government Records Council, pursuant to  
5 subsection b. of section 8 of P.L.2001, c.404 (C.47:1A-7), may be  
6 submitted electronically or by fax. Each submission of a government  
7 record request form or an email record request shall be made to the  
8 custodian of not more than one public agency. Submission of repeated  
9 requests to multiple custodians in the same public agency for the same  
10 record, while an identical or substantially similar request is pending in  
11 the agency, shall permit the custodian to deny the request.<sup>2</sup>

12 A custodian shall promptly comply with a request to inspect,  
13 examine, copy, or provide a copy of a government record. If the  
14 custodian is unable to comply with a request for access, the custodian  
15 shall indicate the specific basis therefor on the request form and  
16 promptly return it to the requestor. The custodian shall sign and date  
17 the form and provide the requestor with a copy thereof. If the  
18 custodian of a government record asserts that part of a particular  
19 record is exempt from public access pursuant to P.L.1963, c.73  
20 (C.47:1A-1 et seq.) as amended and supplemented, the custodian shall  
21 delete or excise from a copy of the record that portion which the  
22 custodian asserts is exempt from access and shall promptly permit  
23 access to the remainder of the record. **【If the government record**  
24 **requested is temporarily unavailable because it is in use or in storage,**  
25 **the custodian shall so advise the requestor and shall make**  
26 **arrangements to promptly make available a copy of the record.】** If a  
27 request for access to a government record would substantially disrupt  
28 agency operations, the custodian may deny access to the record after  
29 <sup>2</sup>informing the requestor of the potential disruption to agency  
30 operations and<sup>2</sup> attempting to reach a reasonable solution with the  
31 requestor that accommodates the interests of the requestor and the  
32 agency.

33 A party to a legal proceeding may not request a government record  
34 if the record sought is the subject of a court order <sup>2</sup>**【in the legal**  
35 **proceeding or if compliance would otherwise be unreasonable,**  
36 **oppressive, or duplicative of already pending discovery request made**  
37 **in that legal proceeding】** including a pending discovery request<sup>2</sup>, and  
38 a custodian shall not be required to complete such a request. The  
39 requestor shall be required to certify whether the government record is  
40 being sought in connection with a legal proceeding and identify the  
41 proceeding for the request to be fulfilled. For purposes of this  
42 provision, a party to a legal proceeding shall include a party <sup>2</sup>**【in**  
43 **interest】** subject to a court order<sup>2</sup>, any attorney representing that  
44 party, and any person acting as an agent for or on behalf of that party.  
45 <sup>2</sup>Nothing in this paragraph shall bar a request for a government record  
46 filed by a labor organization or by a contractor signatory to a collective  
47 bargaining agreement seeking information material to the enforcement

1 of State or federal statutes or regulations regarding but not limited to  
2 wage and hour protections, workplace safety, or public procurement  
3 and public bidding, including, but not limited to, requests for certified  
4 payrolls or information about all bids submitted in response to a public  
5 procurement process subsequent to the deadline for the submission of  
6 all bids for that solicitation, when the request by the labor organization  
7 or contractor signatory is not sought in connection with or in  
8 furtherance of discovery requests in a court proceeding.<sup>2</sup>

9 A custodian shall not be required to complete a request including  
10 for, but not limited to, mail, email, text messages, correspondence, or  
11 social media postings and messages, if the request does not identify  
12 a<sup>2</sup> specific <sup>2</sup>[individuals or] job title or<sup>2</sup> accounts to be searched <sup>2</sup>, a  
13 specific subject matter,<sup>2</sup> and is not confined to a <sup>2</sup>[discrete and  
14 limited] reasonable<sup>2</sup> time period <sup>2</sup>[and a specific subject matter]<sup>2</sup>, or  
15 if the custodian determines that the request would require research and  
16 the collection of information from the contents of government records  
17 and the creation of new government records setting forth that research  
18 and information. <sup>2</sup>It shall be sufficient for a requestor to identify  
19 specific individuals by the individual's job title and position.<sup>2</sup>

20 h. Any officer or employee of a public agency who receives a  
21 request for access to a government record shall forward the request to  
22 the custodian of the record or direct the requestor to the custodian of  
23 the record. The request shall not be considered submitted until it is  
24 received by the custodian of records.

25 i. (1) Unless a shorter time period is otherwise provided by  
26 statute, regulation, or executive order, a custodian of a government  
27 record shall grant access to a government record or deny a request for  
28 access to a government record as soon as possible, but not later than  
29 seven business days after receiving the request, or 14 business days if  
30 the request is for a commercial purpose or if the records have to be  
31 reviewed by the public agency for the purpose of the agency's  
32 compliance with P.L.2021, c.371 (C.47:1B-1 et seq.), but the custodian  
33 shall notify the requestor of the additional response time within seven  
34 business days, provided that the record is currently available and not in  
35 storage or archived. The response time periods of seven or 14  
36 business days, as established in this subsection, shall be an additional  
37 seven business days longer if the public agency is a fire district which  
38 employs one or fewer full-time employees who serve as custodians.  
39 <sup>2</sup>If a commercial requestor would like to receive the record within  
40 seven business days, as established in this subsection, the custodian  
41 shall provide the requestor with a copy of the record and may charge a  
42 special service fee not exceeding two times the cost of the production  
43 of the record.<sup>2</sup>

44 In the event a records custodian is unable to fulfill a records  
45 request due to unforeseen circumstances or circumstances that  
46 otherwise reasonably necessitate additional time to fulfill the records  
47 request, the custodian shall be entitled to a reasonable extension of any

1 response deadline and shall notify the requestor of the time extension  
2 within seven business days after receiving the request.

3 In the event a custodian fails to respond within seven business days  
4 or 14 business days, as appropriate, after receiving a request, the  
5 failure to respond shall be deemed a denial of the request, unless the  
6 requestor has elected not to accurately identify themselves or to  
7 provide **[a name,] an accurate address, email address,** or telephone  
8 number **[, or other means of contacting the requestor].** If the  
9 requestor has elected not to accurately identify themselves or to  
10 provide **[a name,] an accurate address, email address,** or telephone  
11 number, **[or other means of contacting the requestor,]** the custodian  
12 shall not be required to respond until the requestor **[reappears before]**  
13 contacts the custodian seeking a response to the original request.

14 If the government record is in storage or archived, the requestor  
15 shall be so advised within seven or 14 business days, as appropriate,  
16 after the custodian receives the request. The requestor shall be advised  
17 by the custodian when the record can be made available, which shall  
18 be no more than 21 business days from the date the requestor is so  
19 advised. If the record is not made available by that time, access shall  
20 be deemed denied.

21 A public agency shall not be considered to be in possession of a  
22 public record that is created <sup>2</sup>[or] <sup>2</sup> maintained <sup>2</sup>, or received<sup>2</sup> by  
23 another public agency and made available to the public agency either  
24 by remote access to a computer network or by distribution as a  
25 courtesy copy <sup>2</sup>, unless the agency that created, maintained, or  
26 received the record resides within the judicial branch of the State  
27 Government<sup>2</sup>. A records custodian of a public agency that receives a  
28 request for <sup>2</sup>[such]<sup>2</sup> a record <sup>2</sup>created, maintained, or received by  
29 another public agency<sup>2</sup>, shall not be obligated to provide the record to  
30 the requestor <sup>2</sup>[and]. In the event the custodian does not provide the  
31 record, the custodian<sup>2</sup> shall direct the requestor within seven business  
32 days to the public agency that, to the best of their knowledge, created  
33 <sup>2</sup>[or],<sup>2</sup> maintains <sup>2</sup>, or received<sup>2</sup> the requested record, at which time  
34 the request shall be considered completed.

35 The custodian shall not be required to complete an identical  
36 request for access to a government record from the same requestor if  
37 the information has not changed. <sup>2</sup>Nothing in this section shall prevent  
38 a requestor from filing periodic requests regarding regularly updated  
39 public records, including, but not limited to, certified payrolls, permits,  
40 and licensing applications.<sup>2</sup>

41 A requestor shall have 14 business days to retrieve the government  
42 records following notice from the custodian that the request has been  
43 completed and the records are available.

44 (2) During a period declared pursuant to the laws of this State as a  
45 state of emergency, public health emergency, or state of local disaster  
46 emergency, the deadlines by which to respond to a request for, or grant

1 or deny access to, a government record under paragraph (1) of this  
2 subsection or subsection e. of this section shall not apply, provided,  
3 however, that the custodian of a government record shall make a  
4 reasonable effort, as the circumstances permit, to respond to a request  
5 for access to a government record within seven business days or 14  
6 business days, as appropriate, or as soon as possible thereafter.

7 j. A custodian shall **█**post prominently in public view in the part  
8 or parts of the office or offices of the custodian that are open to or  
9 frequented by the public a statement that sets forth in clear, concise  
10 and specific terms the **█** include information on the public agency's  
11 website and public records request form regarding a requestor's right  
12 to appeal a denial of, or failure to provide, access to a government  
13 record **█**by any person for inspection, examination, or copying or for  
14 purchase of copies thereof**█** and the procedure by which an appeal may  
15 be filed, which shall include the website address and toll-free  
16 information line phone number of the Government Records Council.

17 k. The files maintained by the Office of the Public Defender that  
18 relate to the handling of any case shall be considered confidential and  
19 shall not be open to inspection by any person unless authorized by law,  
20 court order, or the State Public Defender.

21 (cf: P.L.2023, c.113, s.2)

22  
23 <sup>2</sup>**█**4. <sup>2</sup>3. Section 7 of P.L.2001, c.404 (C.47:1A-6) is amended to  
24 read as follows:

25 7. A person who is denied access to a government record by the  
26 custodian of the record, at the option of the requestor who is accurately  
27 identified by name, may, within 45 days of the date of denial:

28 institute a proceeding to challenge the custodian's decision by  
29 filing an action in Superior Court which shall be heard in the vicinage  
30 where it is filed by a Superior Court Judge who has been designated to  
31 hear such cases because of that judge's knowledge and expertise in  
32 matters relating to access to government records; or

33 in lieu of filing an action in Superior Court, file a complaint with  
34 the Government Records Council established pursuant to section 8 of  
35 P.L.2001, c.404 (C.47:1A-7).

36 The right to institute any proceeding under this section shall be  
37 solely that of the requestor. Any such proceeding shall proceed in a  
38 summary or expedited manner. The public agency shall have the  
39 burden of proving that the denial of access is authorized by law. If it is  
40 determined that access has been improperly denied, the court or  
41 **█**agency head Government Records Council shall order that access be  
42 allowed. A requestor who prevails in any proceeding **█**shall may be  
43 entitled to a reasonable attorney's fee. <sup>2</sup>**█**In determining whether to  
44 award attorney's fees, the court or the Government Records Council  
45 may consider whether the public agency is found to have knowingly  
46 and willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.), or to have  
47 unreasonably denied access. **█** While the court or Government Records

1 Council may award a reasonable attorney's fee to a prevailing party in  
 2 any proceeding, if the public agency has been determined to have  
 3 unreasonably denied access, acted in bad faith, or knowingly and  
 4 willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.), then the court or  
 5 Government Records Council shall award a reasonable attorney's fee.<sup>2</sup>

6 If the records sought are produced by the public agency within  
 7 seven business days of service of an action in Superior Court or a  
 8 complaint before the Government Records Council,<sup>1</sup> upon notification  
 9 to the Superior Court or the Government Records Council,<sup>1</sup> the matter  
 10 shall be dismissed without prejudice and the requestor may be entitled  
 11 to a reasonable attorney's fee if the custodian knew or should have  
 12 known that the denial of access violated P.L.1963, c.73 (C.47:1A-1 et  
 13 seq.).

14 (cf: P.L.2001, c.404, s.7)

15  
 16 <sup>2</sup>**[5.]** <sup>4</sup><sup>2</sup> Section 8 of P.L.2001, c.404 (C.47:1A-7) is amended to  
 17 read as follows:

18 8. a. (1) There is established in the Department of Community  
 19 Affairs a Government Records Council. The council shall consist of  
 20 the Commissioner of Community Affairs or the commissioner's  
 21 designee, **[**the Commissioner of Education or the commissioner's  
 22 designee, and three public members appointed by the Governor, with  
 23 the advice and consent of the Senate, not more than two of whom shall  
 24 be of the same political party. The three public members shall serve  
 25 during the term of the Governor making the appointment and until the  
 26 appointment of a successor**]** who shall serve as Chair, and eight  
 27 public members appointed as follows: four appointed by the Governor  
 28 with the advice and consent of the Senate<sup>1</sup>, no more than two of  
 29 whom shall be members of the same political party<sup>1</sup> ; two directly  
 30 appointed by the Governor from persons recommended by the  
 31 President of the Senate<sup>1</sup>, no more than one of whom shall be a  
 32 member of the same political party<sup>1</sup> ; and two directly appointed by  
 33 the Governor from persons recommended by the Speaker of the  
 34 General Assembly<sup>1</sup>, no more than one of whom shall be a member of  
 35 the same political party<sup>1</sup> . Each public member shall serve for a term  
 36 of five years and until a successor is appointed and qualified.

37 (2) Notwithstanding<sup>1</sup> **[**any provision of subsection a. (1) of this  
 38 section**]** the provisions of paragraph (1) of this subsection<sup>1</sup> , or any  
 39 other law, rule, or regulation to the contrary, within 90 days following  
 40 the enactment date of P.L. , c. (pending before the Legislature as  
 41 this bill), the Governor shall directly appoint eight public members to  
 42 the council, each of whom shall serve for a term of three years and  
 43 until a successor is appointed and qualified, as follows: two from  
 44 persons recommended by the President of the Senate,<sup>1</sup> no more than  
 45 one of whom shall be a member of the same political party;<sup>1</sup> two from  
 46 persons recommended by the Speaker of the General Assembly,<sup>1</sup> no

1 more than one of whom shall be a member of the same political party;<sup>1</sup>  
2 and four appointed at the sole discretion of the Governor<sup>1</sup>, no more  
3 than two of whom shall be members of the same political party<sup>1</sup>. The  
4 terms of office of the members of the council serving on the date of  
5 enactment of P.L. \_\_\_\_\_, c. 2:2<sup>2</sup> (pending before the Legislature as this  
6 bill), shall expire upon the Governor's direct appointment of the new  
7 members pursuant to this subsection.

8 (3) A public member shall not hold any other State or local elected  
9 **【or appointed】** office **【or employment】** while serving as a member of  
10 the council. A public member shall **【not receive a salary for service**  
11 **on the council but shall be reimbursed for reasonable and necessary**  
12 **expenses associated with serving on the council and may receive such**  
13 **per diem payment as may be provided in the annual appropriations**  
14 **act】** receive a salary equivalent to that provided by law for a public  
15 member of the Local Finance Board of the Division of Local  
16 Government Services in the Department of Community Affairs. A  
17 member may be removed by the Governor for cause. Vacancies  
18 among the public members shall be filled **【in the same manner in**  
19 **which the original appointment was made.** The members of the  
20 council shall choose one of the public members to serve as the  
21 council's chair.**】** by appointment by the Governor, according to the  
22 provisions of subsection a. of this section, and for the remainder of the  
23 unexpired term. The council may employ an executive director and  
24 such professional and clerical staff as it deems necessary and may call  
25 upon the Department of Community Affairs for such assistance as it  
26 deems necessary and may be available to it.

27 b. The Government Records Council shall:

28 establish an informal mediation program to facilitate the resolution  
29 of disputes regarding access to government records;

30 receive, hear, review and adjudicate a complaint filed by any  
31 person concerning a denial of access to a government record by a  
32 records custodian;

33 issue advisory opinions, on its own initiative, as to whether a  
34 particular type of record is a government record which is accessible to  
35 the public;

36 prepare guidelines and an informational pamphlet for use by  
37 records custodians in complying with the law governing access to  
38 public records;

39 prepare an informational pamphlet explaining the public's right of  
40 access to government records and the methods for resolving disputes  
41 regarding access, which records custodians shall make available to  
42 persons requesting access to a government record;

43 prepare lists for use by records custodians of the types of records in  
44 the possession of public agencies which are government records;

45 make training opportunities available for records custodians and  
46 other public officers and employees which explain the law governing  
47 access to public records;

1 <sup>2</sup>promulgate rules and regulations to establish a uniform  
2 government record request form for all government record requests  
3 permitted for use by any public agency, that includes the required form  
4 components as set forth in subsection f. of section 6 of P.L.2001, c.404  
5 (C.47:1A-5). The form shall include certification that a party to a legal  
6 proceeding may not request a government record if the record sought  
7 is the subject of a court order or a pending discovery request. The  
8 council shall make the form available electronically and in print and  
9 shall make the form available to incarcerated individuals;<sup>2</sup> and

10 operate an informational website and a toll-free helpline staffed by  
11 knowledgeable employees of the council during regular business hours  
12 which shall enable any person, including records custodians, to call for  
13 information regarding the law governing access to public records and  
14 allow any person to request mediation or to file a complaint with the  
15 council when access has been denied[;] .

16 In implementing the provisions of [subsections d. and e. of] this  
17 section, the council shall: act, to the maximum extent possible, at the  
18 convenience of the parties; utilize video conferencing,  
19 teleconferencing, faxing of documents, e-mail and similar forms of  
20 modern communication; conduct virtual meetings and hearings, when  
21 practical and at the discretion of the council; and when in-person  
22 meetings are necessary, send representatives to meet with the parties at  
23 a location convenient to the parties.

24 The council shall periodically review the information and format  
25 of its website and make such adjustments as shall be deemed necessary  
26 to ensure that the information is clearly presented, accessible, and  
27 useful for the general public. The council shall conduct such an initial  
28 review within six months following the effective date of P.L. , c.  
29 (pending before the Legislature as this bill).

30 c. At the request of the council, a public agency shall produce  
31 documents and ensure the attendance of witnesses with respect to the  
32 council's investigation of any complaint or the holding of any hearing.

33 d. Upon receipt of a written complaint signed by any person  
34 alleging that a custodian of a government record has improperly  
35 denied that person access to a government record, the council shall  
36 offer the parties the opportunity to resolve the dispute through  
37 mediation. Mediation shall enable a person who has been denied  
38 access to a government record and the public agency that employs the  
39 records custodian who denied or failed to provide access thereto to  
40 attempt to mediate the dispute through a process whereby a neutral  
41 mediator, who shall be trained in mediation selected by the council,  
42 acts to encourage and facilitate the resolution of the dispute.  
43 Mediation shall be an informal, nonadversarial process having the  
44 objective of helping the parties reach a mutually acceptable, voluntary  
45 agreement. The mediator shall assist the parties in identifying issues,  
46 foster joint problem solving, and explore settlement alternatives.

47 e. If any party declines mediation or if mediation fails to resolve  
48 the matter to the satisfaction of all parties, the council shall initiate an

1 investigation concerning the facts and circumstances set forth in the  
2 complaint. The council shall make a determination as to whether the  
3 complaint is within its jurisdiction or frivolous or without any  
4 reasonable factual basis. The council may assign staff attorneys to  
5 conduct the investigation, present findings, and make  
6 recommendations to the council. If the council shall conclude that the  
7 complaint is outside its jurisdiction, frivolous, or without factual basis,  
8 it shall reduce that conclusion to writing and transmit a copy thereof to  
9 the complainant and to the public agency that employs the records  
10 custodian against whom the complaint was filed. Otherwise, the  
11 council shall notify the public agency that employs the records  
12 custodian against whom the complaint was filed of the nature of the  
13 complaint and the facts and circumstances set forth therein.

14 The public agency that employs the records custodian shall have  
15 the opportunity to present the board with any statement or information  
16 concerning the complaint which the **【custodian】** agency wishes. If the  
17 council is able to make a determination as to a record's accessibility  
18 based upon the complaint and the **【custodian's】** agency's response  
19 thereto, it shall reduce that conclusion to writing and transmit a copy  
20 thereof to the complainant and to the public agency that employs the  
21 records custodian against whom the complaint was filed. If the  
22 council is unable to make a determination as to a record's accessibility  
23 based upon the complaint and the **【custodian's】** agency's response  
24 thereto, the council shall conduct a hearing on the matter in conformity  
25 with the rules and regulations provided for hearings by a State agency  
26 in contested cases under the "Administrative Procedure Act,"  
27 P.L.1968, c.410 (C.52:14B-1 et seq.), insofar as they may be  
28 applicable and practicable.

29 The council shall, by a majority vote of its members, render a  
30 decision as to whether the record which is the subject of the complaint  
31 is a government record which must be made available for public  
32 access pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and  
33 supplemented. If the council determines, by a majority vote of its  
34 members, that a custodian **【has】** is found to have knowingly and  
35 willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and  
36 supplemented, and **【is found】** to have unreasonably denied access  
37 under the totality of the circumstances, the council may impose the  
38 penalties provided for in section 12 of P.L.2001, c.404 (C.47:1A-11)  
39 on the public agency that employs the custodian.

40 A decision of the council may be appealed to the Appellate  
41 Division of the Superior Court. Such appeals shall be filed within  
42 <sup>2</sup>**【30】** 45<sup>2</sup> days from the date the council renders a decision. A  
43 decision of the council shall not have value as a precedent for any case  
44 initiated in Superior Court pursuant to section 7 of P.L.2001, c.404  
45 (C.47:1A-6). All proceedings of the council pursuant to this  
46 subsection shall be conducted as expeditiously as possible.

1 Beginning 18 months following the effective date of P.L. , c.  
 2 (pending before the Legislature as this bill), the council shall  
 3 adjudicate all complaints that come before it within 90 days of the  
 4 complaint's filing, with the ability to extend for <sup>2</sup>~~30~~ 45<sup>2</sup> days for  
 5 good cause, exclusive of any time period during which the parties are  
 6 engaged in a mediation process pursuant to this section. The council  
 7 shall make such organizational adjustments and modify its procedures  
 8 as it deems necessary to ensure that complaints are adjudicated in such  
 9 a timeframe.

10 f. The council shall not charge any party a fee in regard to actions  
 11 filed with the council. The council shall be subject to the provisions of  
 12 the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6), except  
 13 that the council may go into closed session during that portion of any  
 14 proceeding during which the contents of a contested record would be  
 15 disclosed. **[A requestor who prevails in any proceeding shall be**  
 16 **entitled to a reasonable attorney's fee.] <sup>2</sup>A requestor who prevails in**  
 17 **any proceeding may be entitled to a reasonable attorney's fee as**  
 18 **provided for in section 6 of P.L.2001, c.404 (C.47:1A-6).<sup>2</sup>**

19 g. The council shall not have jurisdiction over the Judicial or  
 20 Legislative Branches of State Government or any agency, officer, or  
 21 employee of those branches.

22 <sup>2</sup>h. The Superior Court shall provide the Government Records  
 23 Council a list of all actions which have been brought before the courts  
 24 filed pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known  
 25 as the open public records act, which have been settled by the parties  
 26 thereto. Such a list shall provide the docket number and names of the  
 27 parties to the action. The council shall compile a database comprised  
 28 of the data provided by the Superior Court.

29 The Administrative Office of the Courts, on behalf of the Superior  
 30 Court of New Jersey, shall provide the Government Records Council a  
 31 report at the end of each court year of all cases filed pursuant to  
 32 P.L.1963, c.73 (C.47:1A-1 et seq.). The report shall be grouped by  
 33 defendant and county filed in and shall include a comprehensive list of  
 34 all cases filed with a summary judgment regarding P.L.1963, c.73  
 35 (C.47:1A-1 et seq.), Statewide, itemized by the following factors:

- 36 (1) Case caption;
- 37 (2) County of venue;
- 38 (3) Docket number;
- 39 (4) Counsel of records;
- 40 (5) Case disposition; and
- 41 (6) Attorney's fees requested and awarded.<sup>2</sup>

42 (cf: P.L.2001, c.404, s.8)

44 <sup>2</sup>**[6.] 5.<sup>2</sup>** Section 12 of P.L.2001, c.404 (C.47:1A-11) is  
 45 amended to read as follows:

46 12. a. **[A]** If a public official, officer, employee, or custodian  
 47 **[who]** is found to have knowingly and willfully [violates] violated

1 P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented,  
2 and **【is found】** to have unreasonably denied access under the  
3 totality of the circumstances, the public agency that employs the  
4 custodian, officer, employee, or official shall be subject to a civil  
5 penalty of \$1,000 for an initial violation, \$2,500 for a second  
6 violation that occurs within 10 years of an initial violation, and  
7 \$5,000 for a third violation that occurs within 10 years of an initial  
8 violation. **【This penalty】** The penalties authorized pursuant to this  
9 subsection may be imposed by the courts or by the Government  
10 Records Council.

11 b. A requestor <sup>2</sup>【who is found to have sold the data obtained by  
12 a records request,】<sup>2</sup> who is found to have intentionally failed to  
13 certify that a records request is for a commercial purpose <sup>2</sup>【, who is  
14 a data broker, or who is making the request on behalf of and for the  
15 use of a data broker, and is found to have intentionally certified that  
16 the requestor is not a data broker or is not making the request on  
17 behalf of and for the use of a data broker,】<sup>2</sup> shall be subject to a  
18 civil penalty of \$1,000 for the first offense, \$2,500 for the second  
19 offense, and \$5,000 for each subsequent offense. The penalties may  
20 be imposed by the courts.

21 c. These penalties shall be collected and enforced in  
22 proceedings in accordance with the "Penalty Enforcement Law of  
23 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court  
24 governing actions for the collection of civil penalties. The Superior  
25 Court shall have jurisdiction of proceedings for the collection and  
26 enforcement of the penalty imposed by this section.

27 d. Appropriate disciplinary proceedings may be initiated  
28 against a public official, officer, employee or custodian against  
29 whom a penalty has been imposed.

30 (cf: P.L.2001, c.404, s.12)

31

32 <sup>2</sup>**【7.】** 6.<sup>2</sup> Section 2 of P.L.2021, c.371 (C.47:1B-2) is amended  
33 to read as follows:

34 2. a. An authorized person seeking the redaction or  
35 nondisclosure of the home address of any covered person from  
36 certain records and Internet postings consistent with section 2 of  
37 P.L.2015, c.226 (C.47:1-17), section 1 of P.L.1995, c.23 (C.47:1A-  
38 1.1), or section 6 of P.L.2001, c.404 (C.47:1A-5) shall submit a  
39 request in accordance with section 1 of P.L.2021, c.371 (C.47:1B-1)  
40 to the Office of Information Privacy through the secure portal  
41 established by the office. The address shall only be subject to  
42 redaction or nondisclosure if a request is submitted to and approved  
43 by the Director of the Office of Information Privacy.

44 b. (1) A public agency shall redact or cease to disclose, in  
45 accordance with section 6 of P.L.2001, c.404 (C.47:1A-5) and  
46 section 1 of P.L.1995, c.23 (C.47:1A-1.1), respectively, the home  
47 address of a covered person approved by the Office of Information

1 Privacy not later than 30 days following the approval. A public  
2 agency shall also discontinue the redaction or nondisclosure of the  
3 home address of any covered person for whom a revocation request  
4 has been approved not later than 30 days following the approval.

5 (2) A custodian of a public agency who makes a reasonable  
6 effort to comply with this subsection shall be presumed to have  
7 acted without willful, purposeful, or reckless disregard of the law.

8 c. An immediate family member who has sought and received  
9 approval under subsection a. of this section and who no longer  
10 resides with the active, formerly active, or retired judicial officer,  
11 law enforcement officer, child protective investigator in the  
12 Division of Child Protection and Permanency, or prosecutor shall  
13 submit through the portal a revocation request not later than 30 days  
14 from the date on which the immediate family member no longer  
15 resided with the judicial officer, law enforcement officer, child  
16 protective investigator in the Division of Child Protection and  
17 Permanency, or prosecutor.

18 d. A person submitting a request pursuant to subsection a. of  
19 this section shall affirm in writing that the person understands that  
20 certain rights, duties, and obligations are affected as a result of the  
21 request, including:

22 (1) the receipt of certain notices from non-governmental entities  
23 as would otherwise be required pursuant to the "Municipal Land  
24 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.);

25 (2) the signing of petitions related to the nomination or election  
26 of a candidate to public office or related to any public question;

27 (3) the eligibility or requirements related to seeking or accepting  
28 the nomination for election or election to public office, or the  
29 appointment to any public position;

30 (4) the sale or purchase of a home or other property, recordation  
31 of a judgment, lien or other encumbrance on real or other property,  
32 and any relief granted based thereon;

33 (5) the ability to be notified of any class action suit or  
34 settlement; and

35 (6) any other legal, promotional, or official notice which would  
36 otherwise be provided to the person but for the redaction or  
37 nondisclosure of such person's home address pursuant to subsection  
38 a. of this section.

39 (cf: P.L.2023, c.113, s.4)

40

41 <sup>2</sup>**[8.] 7.**<sup>2</sup> (New section) a. Notwithstanding any other law or  
42 rule or regulation to the contrary, whenever there is filed a verified  
43 complaint to the Superior Court of the county in which the request  
44 for access to government records was made under P.L.1963, c.73  
45 (C.47:1A-1 et seq.) alleging that a requestor has sought records  
46 <sup>2</sup>**[thereunder for the purpose to harass a public agency, or to]** with  
47 the intent to<sup>2</sup> substantially interrupt <sup>2</sup>the performance of<sup>2</sup>  
48 government function, the court may issue a protective order limiting

1 the number and scope of requests the requestor may make or order  
2 such other relief as it deems appropriate, including referral of the  
3 matter to mediation <sup>2</sup>or a waiver of the required response time<sup>2</sup>.  
4 The court may issue the protective order if it finds <sup>2</sup>by clear and  
5 convincing evidence<sup>2</sup> that the requestor has sought records under  
6 P.L.1963, c.73 (C.47:1A-1 et seq.) <sup>2</sup>[for the purpose of harassing  
7 the public agency, or to] with the intent to<sup>2</sup> substantially interrupt  
8 the performance of<sup>2</sup> government function <sup>2</sup>[, as the term harass is  
9 defined in N.J.S.2C:33-4]<sup>2</sup>. The complaint shall be accompanied  
10 by a declaration of facts by the public agency withholding the  
11 records demonstrating that it has complied with P.L.1963, c.73  
12 (C.47:1A-1 et seq.) and has made a good faith effort to reach an  
13 informal resolution of the issues relating to the records requests.

14 The requestor shall have notice and an opportunity to answer the  
15 allegations set forth in the petition submitted by the public agency.

16 The public agency shall have the burden of proof by clear and  
17 convincing evidence.

18 The court's consideration of a public agency's complaint for  
19 relief shall proceed in a summary or expedited manner.

20 b. The order specified in subsection a. of this section may limit,  
21 or, in appropriate circumstances, eliminate the public agency's duty  
22 to respond to government records requests from the requestor in the  
23 future.

24 <sup>2</sup>c. Requests for government records filed by a labor  
25 organization or by a contractor signatory to a collective bargaining  
26 agreement seeking information material to the enforcement of State  
27 or federal statutes or regulations regarding but not limited to wage  
28 and hour protections, workplace safety, or public procurement and  
29 public bidding, including but not limited to requests for certified  
30 payrolls or information about all bids submitted in response to a  
31 public procurement process subsequent to the deadline for the  
32 submission of all bids for that solicitation, when the request by the  
33 labor organization or contractor signatory is not sought in  
34 connection to or in furtherance of discovery requests in a court  
35 proceeding, shall not be considered to be intended to interrupt  
36 government functions, and shall not form the basis for the filing of  
37 a complaint under this section.<sup>2</sup>

38 <sup>2</sup>[9. (New section) a. A data broker business entity conducting  
39 business in this State shall register with the Division of Revenue  
40 and Enterprise Services in the Department of the Treasury. The  
41 division shall impose an annual fee of \$250 for each registration.  
42 The fee shall be deposited into the fund created pursuant to  
43 subsection c. of this section. For the purpose of this section, "data  
44 broker" shall have the same meaning as in section 1 of P.L.1995,  
45 c.23 (C.47:1A-1.1).

46 b. The Department of the Treasury may issue rules and  
47 regulations necessary to effectuate the purpose of this section. The

1 rules and regulations shall be effective immediately upon filing  
2 with the Office of Administrative Law for a period not to exceed  
3 one year and may, thereafter, be amended, adopted, or readopted in  
4 accordance with the "Administrative Procedure Act," P.L.1968,  
5 c.410 (C.52:14B-1 et seq.).

6 c. There shall be created in the Department of the Treasury a  
7 dedicated, non-lapsing fund for providing grants to political  
8 subdivisions of the State for the purpose of providing access to  
9 government records electronically, including through the use of  
10 shared services agreements. The fund shall be administered by the  
11 State Treasurer. Monies in the fund shall be appropriated annually  
12 solely for this purpose.】<sup>2</sup>

13  
14 <sup>2</sup>【10. (New section) The Attorney General shall establish a  
15 Police Record Access Improvement Task Force to investigate the  
16 existing statutes governing public access to police records and  
17 develop recommendations for necessary changes to the law.

18 The members of the Police Record Access Improvement Task  
19 Force shall be comprised of 12 members. The membership of the  
20 task force shall be as follows:

21 The Attorney General, or the Attorney's General designee, who  
22 shall serve ex officio, as Chair;

23 Seven public members, appointed by the Governor, one who is a  
24 member of law enforcement, one who is a county or municipal  
25 prosecutor, one who is a criminal defense attorney or public  
26 defender, one who is a member of a social justice advocacy  
27 organization, one who is a member of the New Jersey Press  
28 Association, one who is a member of the New Jersey League of  
29 Municipalities, and one who is a member of the New Jersey  
30 Association of Counties;

31 Two public members, appointed by the Governor upon the  
32 recommendation of the President of the Senate; and

33 Two public members, appointed by the Governor upon the  
34 recommendation of the Speaker of the General Assembly.

35 The task force shall submit to the Governor and to the  
36 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
37 19.1), recommendations for changes to the law.

38 The Department of Law and Public Safety shall provide  
39 stenographic, clerical, and other administrative assistance and  
40 professional staff as the task force requires to carry out its work.  
41 The task force shall be entitled to call to its assistance and avail  
42 itself of the services of the employees of any State, county, or  
43 municipal department, board, bureau, commission, or agency as it  
44 may require and as may be available for its purposes.

45 The public members of the task force shall serve without  
46 compensation, but may be reimbursed for necessary and actual  
47 expenses incurred in the performance of their duties to the extent  
48 that funds are made available for that purpose.】<sup>2</sup>

1       <sup>2</sup>[11.] 8.<sup>2</sup> (New section) a. The provisions of this section shall  
2 apply only to the New Jersey Division of Elections, the New Jersey  
3 Election Law Enforcement Commission, County Boards of  
4 Elections, County Superintendents of Elections, County Clerks,  
5 Municipal Clerks, Fire District Board Clerks, School District  
6 Business Administrators, and School District Board Secretaries,  
7 hereafter referred to as an “election agency” or “election agencies.”  
8 Except as otherwise provided for in this section, all provisions of  
9 this act, P.L. , c. (pending before the Legislature as this bill),  
10 shall apply to all election agencies. Nothing herein shall be  
11 construed to mean that an election agency is required to provide a  
12 record in response to a request for records, unless it has made or  
13 received and maintains said requested record pursuant to law or  
14 regulation.

15       b. Notwithstanding any other law, rule, or regulation to the  
16 contrary, except as otherwise provided in sections 2 and 3 of  
17 P.L.2021, c.371 (C.47:1B-1 et seq.), subsection b. of section 1 of  
18 P.L.1994, c.148 (C.19:31-3.2), or in any rules or regulations  
19 promulgated by the Secretary of State pursuant to subsection f. of  
20 this section, the following shall be records for which the provided  
21 information shall not be redacted by an election agency except for  
22 voter signatures, Social Security numbers, driver license numbers,  
23 and non-driver identification numbers:

24       (1) Voter registration forms and forms changing the provided  
25 information thereof;

26       (2) Party affiliation forms and forms changing the provided  
27 information thereof;

28       (3) Applications for a vote-by-mail ballot, except as otherwise  
29 provided in sections 3 and 13 of P.L.2020, c.70 (C.19:63-1 et seq.);

30       (4) Forms or reports submitted to the Election Law Enforcement  
31 Commission;

32       (5) Nominating petitions for any candidate for any elected  
33 office, which shall be provided in a manner that includes voter  
34 signatures on such petitions;

35       (6) Petitions to recall an elected official, which shall be  
36 provided in a manner that includes voter signatures on such  
37 petitions;

38       (7) Petitions or submissions for any public question or referenda  
39 to be considered by voters, which shall be provided in a manner that  
40 includes voter signatures on such petitions;

41       (8) Any submissions, responses, objections, or challenges  
42 pertaining to a record referred to in this subsection; and

43       (9) Any addendums, amendments, corrections, withdrawals, or  
44 accompanying forms or submissions pertaining to a record referred  
45 to in this subsection.

46       c. Notwithstanding any other law, rule, or regulation to the  
47 contrary, the following shall be records and information that an  
48 election agency shall make available to requestors for immediate

1 access and transmission via email as soon as possible, but not later  
2 than two business days after receipt of the request, provided the  
3 request is not for a commercial purpose, for which a fee shall not be  
4 charged nor collected:

5 (1) Nominating petitions for any candidate for any elected office  
6 filed with the election agency within the preceding 90 days of the  
7 date the request is received;

8 (2) Petitions to recall an elected official filed with the election  
9 agency within the preceding 90 days of the date the request is  
10 received;

11 (3) Petitions or submissions for any public question or referenda  
12 to be considered by voters filed with the election agency within the  
13 preceding 90 days of the date the request is received;

14 (4) Any submissions, responses, objections, or challenges filed  
15 with the election agency within the preceding 90 days pertaining to  
16 a record referred to in this subsection;

17 (5) Any addendums, amendments, corrections, withdrawals, or  
18 accompanying forms or submissions filed with the election agency  
19 within the preceding 90 days pertaining to a record referred to in  
20 this subsection; and

21 (6) The inspection and transmission deadline requirements of  
22 this subsection shall be deemed satisfied if an election agency posts  
23 on its website the records and information referred to in this  
24 subsection.

25 d. Notwithstanding any other law, rule, or regulation to the  
26 contrary, the following in paragraphs (1) through (4) of this  
27 subsection shall be records and information that an election agency  
28 shall make available to requestors for immediate access and  
29 transmission via email as soon as possible, provided the request  
30 pertains only to an election to be held within 16 days after the date  
31 of the request and is not for a commercial purpose. The  
32 transmission shall be not later than two business days after receipt  
33 of the request when said request is made between one and 15 days  
34 before the date of the election pertaining to the request. For any  
35 request submitted the day before an election by noon, the request  
36 shall be completed by noon the day of the election. A fee shall not  
37 be charged nor collected. This subsection shall apply to:

38 (1) Lists, in a format capable of being sorted by the requestor, of  
39 registered voters, including their name, address, party affiliation,  
40 and municipal voting ward and district, who have requested, been  
41 mailed, or returned a vote-by-mail ballot, including the dates the  
42 ballot was requested by the voter, mailed to the voter, and received  
43 by the appropriate election agency;

44 (2) Lists, in a format capable of being sorted by the requestor, of  
45 registered voters, including their name, address, party affiliation,  
46 and municipal voting ward and district, who have cast a vote during  
47 the early voting period, including the date and polling location the  
48 vote was cast;

1 (3) The inspection and transmission deadline requirements of this  
2 subsection shall be deemed satisfied if an election agency posts on  
3 its website the records and information referred to in this  
4 subsection; and

5 (4) Whenever the requirements of this subsection would cause a  
6 voter's privacy to be violated, the information shall be provided in a  
7 manner that maintains the privacy of the voter.

8 e. The following records or information shall not be subject to  
9 disclosure pursuant to a request for public records:

10 (1) Ballots marked by a voter, vote tabulations, or election  
11 results for any election prior to the time of the closing of the polls  
12 on the date of the election, except as otherwise provided for by law,  
13 rule, or regulation; and

14 (2) Manuals instructions, specifications, technical information,  
15 or programming code of computers, software, applications,  
16 networks, tablets, voting machines, printers, scanners, and any other  
17 equipment, systems, policies or plans used for the conduct of  
18 elections, the disclosure of which, could have the potential to  
19 jeopardize the security, integrity or accuracy of the conduct of  
20 elections, tabulation of votes, or determination of election results,  
21 except as otherwise provided for by law, rule, or regulation, or in  
22 response to a subpoena or order of a court or tribunal of competent  
23 jurisdiction.

24 f. The Secretary of State may adopt regulations necessary to  
25 effectuate the purposes of this act, which regulations shall be  
26 effective immediately upon filing with the Office of Administrative  
27 Law for a period not to exceed 18 months, and may, thereafter, be  
28 amended, adopted or readopted in accordance with the provisions of  
29 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
30 seq.).

31

32 <sup>2</sup>**[12.]** 9.<sup>2</sup> (New section) a. <sup>2</sup>**[**The provisions of section 1 of  
33 P.L.1963, c.73 (C.47:1A-1), section 1 of P.L.1995, c.23 (C.47:1A-  
34 1.1), sections 6, 7, and 8 of P.L.2001, c.404 (C.47:1A-5 through  
35 47:1A-7), and section 2 of P.L.2021, c.371 (C.47:1B-2), as  
36 amended by sections 1 through 5 and section 7 of P.L. , c.  
37 (pending before the Legislature as this bill), shall apply  
38 retroactively to all complaints and appeals pending before the  
39 Government Records Council, the Superior Court or the Supreme  
40 Court of New Jersey filed prior to the effective date of P.L. , c.  
41 (pending before the Legislature as this bill), provided, however, that  
42 nothing in this section shall be construed as to retroactively reduce  
43 the statute of limitations governing any complaint or appeal pending  
44 before the Government Records Council, the Superior Court or the  
45 Supreme Court of New Jersey.

46 b.]<sup>2</sup> All complaints and appeals pending before the Government  
47 Records Council or the Superior Court filed prior to the effective  
48 date of P.L. , c. (pending before the Legislature as this bill),

1 either anonymously or using a fictitious name or identity, may be  
2 dismissed with prejudice upon a motion by the public agency,  
3 unless the complainant files an amendment to their complaint that  
4 accurately identifies their name and mailing address within 90 days  
5 of the effective date of P.L. , c. (pending before the Legislature  
6 as this bill).

7 <sup>2</sup>**[c.] b.**<sup>2</sup> The parties to any complaint or appeal pending before  
8 the Government Records Council, the Superior Court or the  
9 Supreme Court of New Jersey filed prior to the effective date of  
10 P.L. , c. (pending before the Legislature as this bill), shall be  
11 permitted to file an amendment to their respective complaints and  
12 answers within 90 days of the effective date of P.L. , c. (pending  
13 before the Legislature as this bill).

14  
15 <sup>2</sup>10. (New section) a. A person who has obtained a photograph  
16 or video recording pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.),  
17 and who is not a subject of the photograph or video footage, shall  
18 not disclose any indecent or graphic images of the subject's  
19 intimate parts, captured by the photograph or recording, without the  
20 prior written consent of the subject of the photograph or video  
21 footage or written consent of the legal next of kin if the subject is  
22 deceased.

23 b. A person who knowingly violates the provisions of  
24 subsection a. of this section shall be guilty of a disorderly persons  
25 offense.

26 c. As used in this section:

27 "Disclose" means to sell, manufacture, give, provide, lend, mail,  
28 deliver, transfer, publish, post, distribute, circulate, disseminate,  
29 present, exhibit, advertise, offer, share, or make available through  
30 the Internet or by any other means, whether or not for pecuniary  
31 gain.

32 "Indecent or graphic" means images depicting exposed intimate  
33 parts in a manner that would be clearly visible to a reasonable  
34 person.

35 "Intimate parts" means the following body parts: sexual organs,  
36 genital area, anal area, inner thigh, groin, buttock, or breast of a  
37 person.

38 "Subject of the photograph or video footage" means a person  
39 who appears in the photograph or video recording.<sup>2</sup>

40  
41 <sup>2</sup>**[13.] 11.**<sup>2</sup> a. There is hereby appropriated \$4,000,000 from the  
42 State General Fund to the Department of Community Affairs to  
43 provide grants to political subdivisions of the State for the purpose  
44 of making government records that are accessible under P.L.1963,  
45 c.73 (C.47:1A-1 et seq.) available electronically, including through  
46 the use of shared services agreements.

1       b. There is hereby appropriated \$4,000,000 from the State  
2 General Fund to the Department of Community Affairs for the  
3 Government Records Council.

4       <sup>2</sup>c. There is hereby appropriated \$2,000,000 from the State  
5 General Fund to the Department of Community Affairs for the  
6 Government Records Council to effectuate the purposes of section 8  
7 of P.L.2001, c.404 (C.47:1A-7) as amended by section 5 of P.L. ,  
8 c. (pending before the Legislature as this bill).<sup>2</sup>

9  
10       <sup>2</sup>[14.] 12.<sup>2</sup> This act shall take effect <sup>2</sup>[30] 90<sup>2</sup> days following  
11 the date of enactment <sup>2</sup>[, except as otherwise provided for in this  
12 act, and except that section 9 and section 11 shall take effect eight  
13 months following the date of enactment. The Attorney General,  
14 Department of Community Affairs, the Government Records  
15 Council, the Department of the Treasury, and the Department of  
16 State may take any anticipatory administrative action in advance as  
17 shall be necessary for the implementation of this act.]<sup>2</sup>

18  
19  
20

21       Makes various changes to process for access to government  
22 records; appropriates \$10 million.

## CHAPTER 16

**AN ACT** concerning access to government records, amending and supplementing various parts of the statutory law, and making an appropriation.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended to read as follows:

C.47:1A-1.1 Definitions.

1. As used in P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented:

"Biotechnology" means any technique that uses living organisms, or parts of living organisms, to make or modify products, to improve plants or animals, or to develop micro-organisms for specific uses; including the industrial use of recombinant DNA, cell fusion, and novel bioprocessing techniques.

"Child protective investigator in the Division of Child Protection and Permanency" means an employee of the Division of Child Protection and Permanency in the Department of Children and Families whose primary duty is to investigate reports of child abuse and neglect, or any other employee of the Department of Children and Families whose duties include investigation, response to, or review of allegations of child abuse and neglect.

"Commercial purpose" means the direct or indirect use of any part of a government record for sale, resale, solicitation, rent, or lease of a service or any use by which the user expects a profit either through commission, salary, or fee. "Commercial purpose" shall not include the use of a government record for any purpose by:

(1) the news media, or any parent company, subsidiary, or affiliate of any news media, as defined by section 2 of P.L.1977, c.253 (C.2A:84A-21a) ;

(2) any news, journalistic, educational, scientific, scholarly, or governmental organization;

(3) any person authorized to act on behalf of a candidate committee, joint candidate committee, political committee, continuing political committee, political party committee, or legislative leadership committee, as defined by section 3 of P.L.1973, c.83 (C.19:44A-3), registered with the New Jersey Election Law Enforcement Commission;

(4) any labor organization;

(5) any contractor signatory to a collective bargaining agreement seeking information material to the enforcement of State or federal statutes or regulations regarding, but not limited to, wage and hour protections, workplace safety, or public procurement and public bidding, including, but not limited to, requests for certified payrolls or information about all bids submitted in response to a public procurement process subsequent to the deadline for the submission of all bids for that solicitation; (6) any employee, agent, contractor, or affiliates of any entity identified in paragraphs (1) through (5) of this definition in this section; or

(7) any non-profit entity, including organizations or individuals qualified for exemption from federal taxation pursuant to section 501(c)(3) of the federal Internal Revenue Code, 26 U.S.C. s.501(c)(3) and section 501(c)(4) of the federal Internal Revenue Code, 26 U.S.C. s.501(c)(4), when the entity does not sell, resell, solicit, rent, or lease a government record to an unaffiliated third party in a way in which the entity expects a fee.

"Constituent" means any State resident or other person communicating with a member of the Legislature.

"Criminal investigatory record" means a record which is not required by law to be made, maintained or kept on file that is held by a law enforcement agency which pertains to any criminal investigation or related civil enforcement proceeding.

"Custodian of a government record" or "custodian" means in the case of a municipality, the municipal clerk and in the case of any other public agency, the officer officially designated by formal action of that agency's director or governing body, as the case may be.

"Government record" or "record" means any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of his or its official business by any officer, commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, or that has been received in the course of his or its official business by any such officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof. The terms shall not include inter-agency or intra-agency advisory, consultative, or deliberative material

"Labor organization" means any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

A government record shall not include the following information which is deemed to be confidential for the purposes of P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented:

information received by a member of the Legislature from a constituent or information held by a member of the Legislature concerning a constituent, including, but not limited to, information in written form or contained in any e-mail or computer data base, or in any telephone record whatsoever, unless it is information the constituent is required by law to transmit;

any memorandum, correspondence, notes, report or other communication prepared by, or for, the specific use of a member of the Legislature in the course of the member's official duties, except that this provision shall not apply to an otherwise publicly-accessible report which is required by law to be submitted to the Legislature or its members;

any copy, reproduction or facsimile of any photograph, negative or print, including instant photographs and videotapes of the body, or any portion of the body, of a deceased person, taken by or for the medical examiner at the scene of death or in the course of a post mortem examination or autopsy made by or caused to be made by the medical examiner except for use by a legal next of kin, a legal representative, or an attending physician of the deceased person, for use as a court of this State permits, or for use by any law enforcement agency in this State or any other state or federal law enforcement agency;

criminal investigatory records;

the portion of any criminal record concerning a person's detection, apprehension, arrest, detention, trial or disposition for unlawful manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in violation of paragraph (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation of paragraph (12) of subsection b. of that section, or a violation of either of those paragraphs and a violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for distributing, dispensing, or possessing, or having under control with intent to distribute or dispense, on or within 1,000 feet of any school property, or on or within 500 feet of the real property comprising a public housing facility, public park, or public building, or for obtaining, possessing, using, being under the influence of, or failing to make lawful disposition of marijuana or hashish in violation of paragraph (3) or (4) of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-10, or for a violation of any of those provisions and a violation

of N.J.S.2C:36-2 for using or possessing with intent to use drug paraphernalia with that marijuana or hashish;

victims' records, except that a victim of a crime shall have access to the victim's own records; any written request by a crime victim for a record to which the victim is entitled to access as provided in this section, including, but not limited to, any law enforcement agency report, domestic violence offense report, and temporary or permanent restraining order;

personal firearms records, except for use by any person authorized by law to have access to these records or for use by any government agency, including any court or law enforcement agency, for purposes of the administration of justice;

personal identifying information received by the Division of Fish and Wildlife in the Department of Environmental Protection in connection with the issuance of any license authorizing hunting with a firearm;

trade secrets and proprietary commercial or financial information obtained from any source. For the purposes of this paragraph, trade secrets shall include software, applications, and code obtained by a public body under a licensing agreement which prohibits its disclosure;

any record within the attorney-client privilege. This paragraph shall not be construed as exempting from access attorney or consultant bills or invoices except that such bills or invoices may be redacted to remove any information protected by the attorney-client privilege;

administrative or technical information regarding computer hardware, tablets, telephones, electronic computing devices, software applications, and networks or devices which operate on or as a part of a computer network or related technologies within the same, which shall include system logs, event logs, transaction logs, tracing logs, or any logs which are reasonably construed to be similar to the same and generated by the devices or servers covered within this paragraph, which, if disclosed, could jeopardize computer security, or related technologies;

emergency or security information or procedures for any buildings or facility which, if disclosed, would jeopardize security of the building or facility or persons therein;

security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons, property, electronic data or software;

security alarm system activity and access reports, including video footage, for any public building, facility, or grounds unless the request identifies a specific incident that occurred, or a specific date and limited time period at a particular public building, facility, or grounds, and is deemed not to compromise the integrity of the security system by revealing capabilities and vulnerabilities of the system;

information which, if disclosed, would give an advantage to competitors or bidders, including detailed or itemized cost estimates prior to bid opening;

information generated by or on behalf of public employers or public employees in connection with any sexual harassment complaint filed with a public employer or with any grievance filed by or against an individual or in connection with collective negotiations, including documents and statements of strategy or negotiating position;

information which is a communication between a public agency and its insurance carrier, administrative service organization or risk management office;

information which is to be kept confidential pursuant to court order;

any copy of form DD-214, NGB-22, or that form, issued by the United States Government, or any other certificate of honorable discharge, or copy thereof, from active service or the reserves of a branch of the Armed Forces of the United States, or from service in the organized militia of the State, that has been filed by an individual with a public agency, except that a veteran or the veteran's spouse or surviving spouse shall have access to the veteran's own records;

any copy of an oath of allegiance, oath of office or any affirmation taken upon assuming the duties of any public office, or that oath or affirmation, taken by a current or former officer or employee in any public office or position in this State or in any county or municipality of this State, including members of the Legislative Branch, Executive Branch, Judicial Branch, and all law enforcement entities, except that the full name, title, and oath date of that person contained therein shall not be deemed confidential;

that portion of any document which discloses the social security number, credit card number, debit card number, bank account information, month and day of birth, any personal email address required by a public agency for government applications, services, or programs, any telephone number or driver license number of any person, or, in accordance with section 2 of P.L.2021, c.371 (C.47:1B-2), that portion of any document which discloses the home address, whether a primary or secondary residence, of any active, formerly active, or retired judicial officer, law enforcement officer, child protective investigator in the Division of Child Protection and Permanency, or prosecutor, or, as defined in section 1 of P.L.2021, c.371 (C.47:1B-1), any immediate family member thereof; except for use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf thereof, or any private person or entity seeking to enforce payment of court-ordered child support; except with respect to the disclosure of driver information by the New Jersey Motor Vehicle Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4); except with respect to the disclosure of information included in records and documents maintained by the Department of the Treasury in connection with the State's business registry programs; and except that a social security number contained in a record required by law to be made, maintained or kept on file by a public agency shall be disclosed when access to the document or disclosure of that information is not otherwise prohibited by State or federal law, regulation or order or by State statute, resolution of either or both houses of the Legislature, Executive Order of the Governor, rule of court or regulation promulgated under the authority of any statute or executive order of the Governor;

that portion of any document that discloses the personal identifying information of any person provided to a public agency for the sole purpose of receiving official notifications;

a list of persons identifying themselves as being in need of special assistance in the event of an emergency maintained by a municipality for public safety purposes pursuant to section 1 of P.L.2017, c.266 (C.40:48-2.67) and their personal identifying information;

a list of persons identifying themselves as being in need of special assistance in the event of an emergency maintained by a county for public safety purposes pursuant to section 6 of P.L.2011, c.178 (C.App.A:9-43.13) and their personal identifying information;

that portion of any document that requires and would disclose personal identifying information of persons under the age of 18 years, except with respect to the disclosure of driver information by the New Jersey Motor Vehicle Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4) or the disclosure of driver information to any insurer or insurance support organization, or a self-insured entity, or its agents, employees, or contractors, for use in connection with claims investigation activities, antifraud activities, rating, or underwriting, and except with respect to the disclosure of voter information on voter and election records pursuant to section 8 of P.L.2024, c.16 (C.47:1A-5.3);

personal identifying information disclosed on domestic animal permits, licenses, and registration;

structured reference data that helps to sort and identify attributes of the information it describes, referred to as metadata, or any extrapolation or compilation thereof, which shall include the SMTP header properties of emails, except that portion that identifies authorship, identity of editor, and time of change;

New Jersey State Firemen's Association financial relief applications;

owner and maintenance manuals;

data classified under the "Health Insurance Portability and Accountability Act of 1996," Pub.L.104-191; and

any indecent or graphic images of a person's intimate parts, as defined in section 10 of P.L.2024, c.16 (C.47:1A-5.2), that are captured in a photograph or video recording without the prior written consent of the subject of the photograph or video footage, as defined in section 10 of P.L.2024, c.16 (C.47:1A-5.2).

A government record shall not include, with regard to any public institution of higher education, the following information which is deemed to be privileged and confidential:

pedagogical, scholarly and/or academic research records and/or the specific details of any research project conducted under the auspices of a public higher education institution in New Jersey, including, but not limited to, research, development information, testing procedures, or information regarding test participants, related to the development or testing of any pharmaceutical or pharmaceutical delivery system, except that a custodian may not deny inspection of a government record or part thereof that gives the name, title, expenditures, source and amounts of funding and date when the final project summary of any research will be available;

test questions, scoring keys and other examination data pertaining to the administration of an examination for employment or academic examination;

records of pursuit of charitable contributions or records containing the identity of a donor of a gift if the donor requires non-disclosure of the donor's identity as a condition of making the gift provided that the donor has not received any benefits of or from the institution of higher education in connection with such gift other than a request for memorialization or dedication;

valuable or rare collections of books or documents obtained by gift, grant, bequest or devise conditioned upon limited public access;

information contained on individual admission applications; and

information concerning student records or grievance or disciplinary proceedings against a student to the extent disclosure would reveal the identity of the student.

Nothing in this section shall be construed to limit the requirements to provide and make publicly available the information pursuant to section 5 of P.L.1963, c.150 (C.34:11-56.29) and section 5 of P.L.1999, c.238 (C.34:11-56.52).

"Judicial officer" means any active, formerly active, or retired federal, state, county, or municipal judge, including a judge of the Tax Court and any other court of limited jurisdiction established, altered, or abolished by law, a judge of the Office of Administrative Law, a judge of the Division of Workers' Compensation, and any other judge established by law who serves in the executive branch.

"Law enforcement agency" means a public agency, or part thereof, determined by the Attorney General to have law enforcement responsibilities.

"Law enforcement officer" means a person whose public duties include the power to act as an officer for the detection, apprehension, arrest, and conviction of offenders against the laws of this State.

"Member of the Legislature" means any person elected or selected to serve in the New Jersey Senate or General Assembly.

"Personal firearms record" means any information contained in a background investigation conducted by the chief of police, the county prosecutor, or the Superintendent of State Police, of any applicant for a permit to purchase a handgun, firearms identification card license, or firearms registration; any application for a permit to purchase a handgun, firearms

identification card license, or firearms registration; any document reflecting the issuance or denial of a permit to purchase a handgun, firearms identification card license, or firearms registration; and any permit to purchase a handgun, firearms identification card license, or any firearms license, certification, certificate, form of register, or registration statement. For the purposes of this paragraph, information contained in a background investigation shall include, but not be limited to, identity, name, address, social security number, telephone number, fax number, driver's license number, email address, or social media address of any applicant, licensee, registrant, or permit holder.

"Public agency" or "agency" means any of the principal departments in the Executive Branch of State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department; the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch; and any independent State authority, commission, instrumentality or agency. The terms also mean any political subdivision of the State or combination of political subdivisions, and any division, board, bureau, office, commission or other instrumentality within or created by a political subdivision of the State or combination of political subdivisions, and any independent authority, commission, instrumentality or agency created by a political subdivision or combination of political subdivisions.

"Victim of a crime" means a person who has suffered personal or psychological injury or death or incurs loss of or injury to personal or real property as a result of a crime, or if such a person is deceased or incapacitated, a member of that person's immediate family.

"Victim's record" means an individually identifiable file or document held by a victims' rights agency which pertains directly to a victim of a crime except that a victim of a crime shall have access to the victim's own records.

"Victims' rights agency" means a public agency, or part thereof, the primary responsibility of which is providing services, including, but not limited to, food, shelter, or clothing, medical, psychiatric, psychological or legal services or referrals, information and referral services, counseling and support services, or financial services to victims of crimes, including victims of sexual assault, domestic violence, violent crime, child endangerment, child abuse or child neglect, and the Victims of Crime Compensation Board, established pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as the Victims of Crime Compensation Office pursuant to P.L.2007, c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.

As used in this section, "personal identifying information" means information that may be used, alone or in conjunction with any other information, to identify a specific individual. Personal identifying information shall include, but shall not be limited to, the following data elements: name, social security number, credit card number, debit card number, bank account information, month and day of birth, any personal email address required by a public agency for government applications, services, or programs, personal telephone number, the street address portion of any person's primary or secondary home address, or driver license number of any person. "Personal identifying information" shall not include any street address, mailing address, email address, or telephone number of a public agency. "Personal identifying information" shall not include the email address of a governmental affairs agent.

2. Section 6 of P.L.2001, c.404 (C.47:1A-5) is amended to read as follows:

C.47:1A-5 Times during which records may be inspected, examined, copied; access; copy fees.

6. a. The custodian of a government record shall permit the record to be inspected, examined, and copied by any person during regular business hours; or in the case of a municipality having a population of 5,000 or fewer according to the most recent federal decennial census, a board of education having a total district enrollment of 500 or fewer, or a public authority having less than \$10 million in assets, during not less than six regular business hours over not less than three business days per week or the entity's regularly-scheduled business hours, whichever is less; unless a government record is exempt from public access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented; any other statute; resolution of either or both houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; Executive Order of the Governor; Rules of Court; any federal law; federal regulation; or federal order. Prior to allowing access to any government record, the custodian thereof shall redact from that record any information which discloses the social security number, credit card number, personal telephone number, or driver license number of any person, or, in accordance with section 2 of P.L.2021, c.371 (C.47:1B-2), the home address, whether a primary or secondary residence, of any active, formerly active, or retired judicial officer, prosecutor, law enforcement officer, or child protective investigator in the Division of Child Protection and Permanency, or, as defined in section 1 of P.L.2021, c.371 (C.47:1B-1), any immediate family member thereof; except for use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf thereof, or any private person or entity seeking to enforce payment of court-ordered child support; except with respect to the disclosure of driver information by the New Jersey Motor Vehicle Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4); and except that a social security number contained in a record required by law to be made, maintained or kept on file by a public agency shall be disclosed when access to the document or disclosure of that information is not otherwise prohibited by State or federal law, regulation or order or by State statute, resolution of either or both houses of the Legislature, Executive Order of the Governor, rule of court or regulation promulgated under the authority of any statute or executive order of the Governor. Except where an agency can demonstrate an emergent need, a regulation that limits access to government records shall not be retroactive in effect or applied to deny a request for access to a government record that is pending before the agency, the council or a court at the time of the adoption of the regulation.

b. (1) A copy or copies of a government record may be purchased by any person upon payment of the fee prescribed by law or regulation.

Except as otherwise provided by law or regulation and except as provided in paragraph (2) of this subsection, the fee assessed for the duplication of a government record embodied in the form of printed matter shall be \$0.05 per letter size page or smaller, and \$0.07 per legal size page or larger. Access to electronic records and non-printed materials shall be provided free of charge, but the public agency may charge for the actual costs of any needed supplies such as computer discs. No fee shall be charged if the request is completed by directing the requestor to the requested government record that is available on the public agency's website or the website of another public agency.

(2) No fee shall be charged to a victim of a crime for a copy or copies of a record to which the crime victim is entitled to access, as provided in section 1 of P.L.1995, c.23 (C.47:1A-1.1).

c. Whenever the nature, format, manner of collation, or volume of a government record embodied in the form of printed matter to be inspected, examined, or copied pursuant to this section is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size or involves an extraordinary expenditure of time and effort to

accommodate the request, the public agency may charge, in addition to the actual cost of duplicating the record, a special service charge that shall be based upon the actual direct cost of providing the copy or copies, and such special service charge shall be reasonable. The custodian shall provide the requestor with an explanation for and an itemized list of the fees or charges.

The requestor shall have the opportunity to review and object to any fee or charge prior to it being incurred. There shall be a rebuttable presumption that the fees or charges presented by the custodian are reasonable. If the requestor objects to the fees or charges, the burden of proof shall be on the requestor to demonstrate that the fees or charges are unreasonable.

d. A custodian shall permit access to a government record and provide a copy thereof in the medium or format requested if the public agency maintains the record in that medium or format. If the public agency does not maintain the record in the medium or format requested, the custodian shall convert the record to the medium or format requested, if the medium or format is available to the public agency and does not require a substantial amount of manipulation or programming of information technology or the services of a third-party vendor. If the public agency converts the record to the medium or format requested, the agency may charge, in addition to the actual cost of duplication, a special service fee that shall be reasonable and shall be based on the cost for any extensive use of information technology, or for the labor cost of personnel providing the service, that is actually incurred by the agency or attributable to the agency for the programming, clerical, and supervisory assistance required, or both. If the public agency does not maintain the record in the electronic medium or format requested, and the medium or format is not available to the public agency without a substantial amount of manipulation or programming of information technology, the custodian shall be under no obligation to convert the record to the electronic medium or format requested but shall, at a minimum, provide a copy in the electronic format maintained by the public agency.

e. Immediate access ordinarily shall be granted to budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information. Immediate access to government records shall not be required to be granted for documents over 24 months old.

Government records shall be made available to the public on a publicly available website to the extent feasible. A public agency may enter into shared services agreements for providing certain government records electronically.

If the government record in a complete and unabridged form is readily available on a public agency's website, the custodian may require the requestor to obtain the record from the website, which shall contain a search bar feature on its home page. The custodian shall provide the requestor with directions to assist in finding the record on the website, including providing the website URL address and the location on the website of the search bar, menu button, tab, link, landing page, or equivalent, which contains the requested record. If the requestor does not respond to the custodian within seven business days of the custodian providing information about a record on the public agency's website, the request shall be deemed fulfilled unless the version of the government record on the public agency's website fails to contain non-protected information contained in the original record, in which case the custodian shall produce the original version of the record subject to any redactions required by law. If, after the custodian has provided instructions on how to find a record on a public agency's website, the requestor is unable to find the record upon making a good faith effort to locate the record on the website, the requestor shall notify the custodian within seven business days of the custodian providing the information. Upon receiving such a request for assistance from a requestor, the custodian shall make a reasonable attempt to assist the requestor in finding the record on the website

within seven business days of the requestor notifying the custodian. If the requestor is still unable to locate the record and requests a physical copy, the custodian shall provide the requestor with a physical copy of the record for a fee not exceeding two times the cost of the production of the document. The custodian shall provide the requestor with the physical copy of the record within seven business days of the request for a physical copy.

f. The custodian of a public agency shall adopt the form established by the Government Records Council pursuant to subsection b. of section 8 of P.L.2001, c.404 (C.47:1A-7), for the use of any person who requests access to a government record held or controlled by the public agency. The form shall provide space for the name, address, email address and telephone number of the requestor and a brief description of the government record sought. A request shall be submitted by a requestor in the form adopted by the custodian and the custodian may deny a request that is incomplete, except that a requestor indicating the request is being submitted anonymously shall not be grounds for denial. A completed form adopted by the custodian, a letter, or an email from a requestor including all of the information required on the adopted form shall suffice in place of a completed form as a valid government record request. If the letter or email from a requestor includes substantially more information than required on the adopted form and requires more than reasonable effort to clarify the information, the custodian may deny the request. If a letter or an email from a requestor does not include all of the information required on the adopted form, the custodian may deny the record request. A request may be submitted anonymously provided, however, that anonymous requestors shall not be permitted to institute proceedings pursuant to section 7 of P.L.2001, c.404 (C.47:1A-6). A request that is submitted anonymously shall not be considered incomplete.

The form also shall include space for a requestor to certify whether the government record will be used by that requestor or another person for a commercial purpose, and the requestor shall be required to provide this information for the request to be fulfilled.

The form shall include space for the custodian to indicate which record will be made available, when the record will be available, and the fees to be charged. The form shall also include the following: (1) specific directions and procedures for requesting a record; (2) a statement as to whether prepayment of fees or a deposit is required; (3) the time period within which the public agency is required by P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented, to make the record available; (4) a statement of the requestor's right to challenge a decision by the public agency to deny access and the procedure for filing an appeal; (5) space for the custodian to list reasons if a request is denied in whole or in part; (6) space for the requestor to sign and date the form; (7) space for the custodian to sign and date the form if the request is fulfilled or denied. The custodian may require a deposit against costs for reproducing documents sought through a request whenever the custodian anticipates that the information thus requested will cost in excess of \$5 to reproduce.

Custodians who have adopted electronic government record request forms shall provide directions on how to submit requests for government records, including any required forms, on the public agency's website.

Custodians shall be permitted to provide an electronic response to any electronic records request if government records are available electronically.

g. A request for access to a government record shall be in writing and hand-delivered, mailed, transmitted electronically, or otherwise conveyed to the appropriate custodian. A public agency may make available to the public on its website an online form, portal, or software for transmitting requests electronically. The form established by the Government Records Council, pursuant to subsection b. of section 8 of P.L.2001, c.404 (C.47:1A-7), may be submitted electronically or by fax. Each submission of a government record request form

or an email record request shall be made to the custodian of not more than one public agency. Submission of repeated requests to multiple custodians in the same public agency for the same record, while an identical or substantially similar request is pending in the agency, shall permit the custodian to deny the request.

A custodian shall promptly comply with a request to inspect, examine, copy, or provide a copy of a government record. If the custodian is unable to comply with a request for access, the custodian shall indicate the specific basis therefor on the request form and promptly return it to the requestor. The custodian shall sign and date the form and provide the requestor with a copy thereof. If the custodian of a government record asserts that part of a particular record is exempt from public access pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented, the custodian shall delete or excise from a copy of the record that portion which the custodian asserts is exempt from access and shall promptly permit access to the remainder of the record. If a request for access to a government record would substantially disrupt agency operations, the custodian may deny access to the record after informing the requestor of the potential disruption to agency operations and attempting to reach a reasonable solution with the requestor that accommodates the interests of the requestor and the agency.

A party to a legal proceeding may not request a government record if the record sought is the subject of a court order, including a pending discovery request, and a custodian shall not be required to complete such a request. The requestor shall be required to certify whether the government record is being sought in connection with a legal proceeding and identify the proceeding for the request to be fulfilled. For purposes of this provision, a party to a legal proceeding shall include a party subject to a court order, any attorney representing that party, and any person acting as an agent for or on behalf of that party. Nothing in this paragraph shall bar a request for a government record filed by a labor organization or by a contractor signatory to a collective bargaining agreement seeking information material to the enforcement of State or federal statutes or regulations regarding, but not limited to, wage and hour protections, workplace safety, or public procurement and public bidding, including, but not limited to, requests for certified payrolls or information about all bids submitted in response to a public procurement process subsequent to the deadline for the submission of all bids for that solicitation, when the request by the labor organization or contractor signatory is not sought in connection with or in furtherance of discovery requests in a court proceeding.

A custodian shall not be required to complete a request, including for, but not limited to, mail, email, text messages, correspondence, or social media postings and messages, if the request does not identify a specific job title or accounts to be searched, a specific subject matter, and is not confined to a reasonable time period, or if the custodian determines that the request would require research and the collection of information from the contents of government records and the creation of new government records setting forth that research and information. It shall be sufficient for a requestor to identify specific individuals by the individual's job title and position.

h. Any officer or employee of a public agency who receives a request for access to a government record shall forward the request to the custodian of the record or direct the requestor to the custodian of the record. The request shall not be considered submitted until it is received by the custodian of records.

i. (1) Unless a shorter time period is otherwise provided by statute, regulation, or executive order, a custodian of a government record shall grant access to a government record or deny a request for access to a government record as soon as possible, but not later than seven business days after receiving the request, or 14 business days if the request is for a commercial purpose or if the records have to be reviewed by the public agency for the purpose of the agency's

compliance with P.L.2021, c.371 (C.47:1B-1 et seq.), but the custodian shall notify the requestor of the additional response time within seven business days, provided that the record is currently available and not in storage or archived. The response time periods of seven or 14 business days, as established in this subsection, shall be an additional seven business days longer if the public agency is a fire district which employs one or fewer full-time employees who serve as custodians. If a commercial requestor would like to receive the record within seven business days, as established in this subsection, the custodian shall provide the requestor with a copy of the record and may charge a special service fee not exceeding two times the cost of the production of the record.

In the event a records custodian is unable to fulfill a records request due to unforeseen circumstances or circumstances that otherwise reasonably necessitate additional time to fulfill the records request, the custodian shall be entitled to a reasonable extension of any response deadline and shall notify the requestor of the time extension within seven business days after receiving the request.

In the event a custodian fails to respond within seven business days or 14 business days, as appropriate, after receiving a request, the failure to respond shall be deemed a denial of the request, unless the requestor has elected not to accurately identify themselves or to provide an accurate address, email address, or telephone number. If the requestor has elected not to accurately identify themselves or to provide an accurate address, email address, or telephone number, the custodian shall not be required to respond until the requestor contacts the custodian seeking a response to the original request.

If the government record is in storage or archived, the requestor shall be so advised within seven or 14 business days, as appropriate, after the custodian receives the request. The requestor shall be advised by the custodian when the record can be made available, which shall be no more than 21 business days from the date the requestor is so advised. If the record is not made available by that time, access shall be deemed denied.

A public agency shall not be considered to be in possession of a public record that is created, maintained, or received by another public agency and made available to the public agency either by remote access to a computer network or by distribution as a courtesy copy, unless the agency that created, maintained, or received the record resides within the judicial branch of the State Government. A records custodian of a public agency that receives a request for a record created, maintained, or received by another public agency shall not be obligated to provide the record to the requestor. In the event the custodian does not provide the record, the custodian shall direct the requestor within seven business days to the public agency that, to the best of their knowledge, created, maintains, or received the requested record, at which time the request shall be considered completed.

The custodian shall not be required to complete an identical request for access to a government record from the same requestor if the information has not changed. Nothing in this section shall prevent a requestor from filing periodic requests regarding regularly updated public records, including, but not limited to, certified payrolls, permits, and licensing applications.

A requestor shall have 14 business days to retrieve the government records following notice from the custodian that the request has been completed and the records are available.

(2) During a period declared pursuant to the laws of this State as a state of emergency, public health emergency, or state of local disaster emergency, the deadlines by which to respond to a request for, or grant or deny access to, a government record under paragraph (1) of this subsection or subsection e. of this section shall not apply, provided, however, that the custodian of a government record shall make a reasonable effort, as the circumstances permit,

to respond to a request for access to a government record within seven business days or 14 business days, as appropriate, or as soon as possible thereafter.

j. A custodian shall include information on the public agency's website and public records request form regarding a requestor's right to appeal a denial of, or failure to provide, access to a government record and the procedure by which an appeal may be filed, which shall include the website address and toll-free information line phone number of the Government Records Council.

k. The files maintained by the Office of the Public Defender that relate to the handling of any case shall be considered confidential and shall not be open to inspection by any person unless authorized by law, court order, or the State Public Defender.

3. Section 7 of P.L.2001, c.404 (C.47:1A-6) is amended to read as follows:

C.47:1A-6 Proceeding to challenge denial of access to record.

7. A person who is denied access to a government record by the custodian of the record, at the option of the requestor who is accurately identified by name, may, within 45 days of the date of denial:

institute a proceeding to challenge the custodian's decision by filing an action in Superior Court which shall be heard in the vicinage where it is filed by a Superior Court Judge who has been designated to hear such cases because of that judge's knowledge and expertise in matters relating to access to government records; or

in lieu of filing an action in Superior Court, file a complaint with the Government Records Council established pursuant to section 8 of P.L.2001, c.404 (C.47:1A-7).

The right to institute any proceeding under this section shall be solely that of the requestor. Any such proceeding shall proceed in a summary or expedited manner. The public agency shall have the burden of proving that the denial of access is authorized by law. If it is determined that access has been improperly denied, the court or Government Records Council shall order that access be allowed. A requestor who prevails in any proceeding may be entitled to a reasonable attorney's fee. While the court or Government Records Council may award a reasonable attorney's fee to a prevailing party in any proceeding, if the public agency has been determined to have unreasonably denied access, acted in bad faith, or knowingly and willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.), then the court or Government Records Council shall award a reasonable attorney's fee.

If the records sought are produced by the public agency within seven business days of service of an action in Superior Court or a complaint before the Government Records Council, upon notification to the Superior Court or the Government Records Council, the matter shall be dismissed without prejudice and the requestor may be entitled to a reasonable attorney's fee if the custodian knew or should have known that the denial of access violated P.L.1963, c.73 (C.47:1A-1 et seq.).

4. Section 8 of P.L.2001, c.404 (C.47:1A-7) is amended to read as follows:

C.47:1A-7 Government Records Council.

8. a. (1) There is established in the Department of Community Affairs a Government Records Council. The council shall consist of the Commissioner of Community Affairs or the commissioner's designee, who shall serve as Chair, and eight public members appointed as follows: four appointed by the Governor with the advice and consent of the Senate, no more than two of whom shall be members of the same political party; two directly appointed by the

Governor from persons recommended by the President of the Senate, no more than one of whom shall be a member of the same political party; and two directly appointed by the Governor from persons recommended by the Speaker of the General Assembly, no more than one of whom shall be a member of the same political party. Each public member shall serve for a term of five years and until a successor is appointed and qualified.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, or any other law, rule, or regulation to the contrary, within 90 days following the enactment date of P.L.2024, c.16 (C.47:1A-5.1 et al.), the Governor shall directly appoint eight public members to the council, each of whom shall serve for a term of three years and until a successor is appointed and qualified, as follows: two from persons recommended by the President of the Senate, no more than one of whom shall be a member of the same political party; two from persons recommended by the Speaker of the General Assembly, no more than one of whom shall be a member of the same political party; and four appointed at the sole discretion of the Governor, no more than two of whom shall be members of the same political party. The terms of office of the members of the council serving on the date of enactment of P.L.2024, c.16 (C.47:1A-5.1 et al.), shall expire upon the Governor's direct appointment of the new members pursuant to this subsection.

(3) A public member shall not hold any other State or local elected office while serving as a member of the council. A public member shall receive a salary equivalent to that provided by law for a public member of the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs. A member may be removed by the Governor for cause. Vacancies among the public members shall be filled by appointment by the Governor, according to the provisions of subsection a. of this section, and for the remainder of the unexpired term. The council may employ an executive director and such professional and clerical staff as it deems necessary and may call upon the Department of Community Affairs for such assistance as it deems necessary and may be available to it.

b. The Government Records Council shall:

establish an informal mediation program to facilitate the resolution of disputes regarding access to government records;

receive, hear, review and adjudicate a complaint filed by any person concerning a denial of access to a government record by a records custodian;

issue advisory opinions, on its own initiative, as to whether a particular type of record is a government record which is accessible to the public;

prepare guidelines and an informational pamphlet for use by records custodians in complying with the law governing access to public records;

prepare an informational pamphlet explaining the public's right of access to government records and the methods for resolving disputes regarding access, which records custodians shall make available to persons requesting access to a government record;

prepare lists for use by records custodians of the types of records in the possession of public agencies which are government records;

make training opportunities available for records custodians and other public officers and employees which explain the law governing access to public records;

promulgate rules and regulations to establish a uniform government record request form for all government record requests permitted for use by any public agency that includes the required form components as set forth in subsection f. of section 6 of P.L.2001, c.404 (C.47:1A-5). The form shall include certification that a party to a legal proceeding may not request a government record if the record sought is the subject of a court order or a pending

discovery request. The council shall make the form available electronically and in print and shall make the form available to incarcerated individuals; and

operate an informational website and a toll-free helpline staffed by knowledgeable employees of the council during regular business hours which shall enable any person, including records custodians, to call for information regarding the law governing access to public records and allow any person to request mediation or to file a complaint with the council when access has been denied.

In implementing the provisions of this section, the council shall: act, to the maximum extent possible, at the convenience of the parties; utilize video conferencing, teleconferencing, faxing of documents, e-mail and similar forms of modern communication; conduct virtual meetings and hearings when practical and at the discretion of the council; and when in-person meetings are necessary, send representatives to meet with the parties at a location convenient to the parties.

The council shall periodically review the information and format of its website and make such adjustments as shall be deemed necessary to ensure that the information is clearly presented, accessible, and useful for the general public. The council shall conduct such an initial review within six months following the effective date of P.L.2024, c.16 (C.47:1A-5.1 et al.).

c. At the request of the council, a public agency shall produce documents and ensure the attendance of witnesses with respect to the council's investigation of any complaint or the holding of any hearing.

d. Upon receipt of a written complaint signed by any person alleging that a custodian of a government record has improperly denied that person access to a government record, the council shall offer the parties the opportunity to resolve the dispute through mediation. Mediation shall enable a person who has been denied access to a government record and the public agency that employs the records custodian who denied or failed to provide access thereto to attempt to mediate the dispute through a process whereby a neutral mediator, who shall be trained in mediation selected by the council, acts to encourage and facilitate the resolution of the dispute. Mediation shall be an informal, nonadversarial process having the objective of helping the parties reach a mutually acceptable, voluntary agreement. The mediator shall assist the parties in identifying issues, foster joint problem solving, and explore settlement alternatives.

e. If any party declines mediation or if mediation fails to resolve the matter to the satisfaction of all parties, the council shall initiate an investigation concerning the facts and circumstances set forth in the complaint. The council shall make a determination as to whether the complaint is within its jurisdiction or frivolous or without any reasonable factual basis. The council may assign staff attorneys to conduct the investigation, present findings, and make recommendations to the council. If the council shall conclude that the complaint is outside its jurisdiction, frivolous, or without factual basis, it shall reduce that conclusion to writing and transmit a copy thereof to the complainant and to the public agency that employs the records custodian against whom the complaint was filed. Otherwise, the council shall notify the public agency that employs the records custodian against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein.

The public agency that employs the records custodian shall have the opportunity to present the board with any statement or information concerning the complaint which the agency wishes. If the council is able to make a determination as to a record's accessibility based upon the complaint and the agency's response thereto, it shall reduce that conclusion to writing and transmit a copy thereof to the complainant and to the public agency that employs the records custodian against whom the complaint was filed. If the council is unable to make a determination as to a record's accessibility based upon the complaint and the agency's response

thereto, the council shall conduct a hearing on the matter in conformity with the rules and regulations provided for hearings by a State agency in contested cases under the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), insofar as they may be applicable and practicable.

The council shall, by a majority vote of its members, render a decision as to whether the record which is the subject of the complaint is a government record which must be made available for public access pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented. If the council determines, by a majority vote of its members, that a custodian is found to have knowingly and willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented, and to have unreasonably denied access under the totality of the circumstances, the council may impose the penalties provided for in section 12 of P.L.2001, c.404 (C.47:1A-11) on the public agency that employs the custodian.

A decision of the council may be appealed to the Appellate Division of the Superior Court. Such appeals shall be filed within 45 days from the date the council renders a decision. A decision of the council shall not have value as a precedent for any case initiated in Superior Court pursuant to section 7 of P.L.2001, c.404 (C.47:1A-6). All proceedings of the council pursuant to this subsection shall be conducted as expeditiously as possible.

Beginning 18 months following the effective date of P.L.2024, c.16 (C.47:1A-5.1 et al.), the council shall adjudicate all complaints that come before it within 90 days of the complaint's filing, with the ability to extend for 45 days for good cause, exclusive of any time period during which the parties are engaged in a mediation process pursuant to this section. The council shall make such organizational adjustments and modify its procedures as it deems necessary to ensure that complaints are adjudicated in such a timeframe.

f. The council shall not charge any party a fee in regard to actions filed with the council. The council shall be subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6), except that the council may go into closed session during that portion of any proceeding during which the contents of a contested record would be disclosed. A requestor who prevails in any proceeding may be entitled to a reasonable attorney's fee as provided for in section 7 of P.L.2001, c.404 (C.47:1A-6).

g. The council shall not have jurisdiction over the Judicial or Legislative Branches of State Government or any agency, officer, or employee of those branches.

h. The Superior Court shall provide the Government Records Council a list of all actions which have been brought before the courts filed pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the open public records act, which have been settled by the parties thereto. Such a list shall provide the docket number and names of the parties to the action. The council shall compile a database comprised of the data provided by the Superior Court.

The Administrative Office of the Courts, on behalf of the Superior Court of New Jersey, shall provide the Government Records Council a report at the end of each court year of all cases filed pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.). The report shall be grouped by defendant and county filed in and shall include a comprehensive list of all cases filed with a summary judgment regarding P.L.1963, c.73 (C.47:1A-1 et seq.), Statewide, itemized by the following factors:

- (1) Case caption;
- (2) County of venue;
- (3) Docket number;
- (4) Counsel of records;
- (5) Case disposition; and
- (6) Attorney's fees requested and awarded.

5. Section 12 of P.L.2001, c.404 (C.47:1A-11) is amended to read as follows:

C.47:1A-11 Violations, penalties, disciplinary proceeding.

12. a. If a public official, officer, employee, or custodian is found to have knowingly and willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented, and to have unreasonably denied access under the totality of the circumstances, the public agency that employs the custodian, officer, employee, or official shall be subject to a civil penalty of \$1,000 for an initial violation, \$2,500 for a second violation that occurs within 10 years of an initial violation, and \$5,000 for a third violation that occurs within 10 years of an initial violation. The penalties authorized pursuant to this subsection may be imposed by the courts or by the Government Records Council.

b. A requestor who is found to have intentionally failed to certify that a records request is for a commercial purpose shall be subject to a civil penalty of \$1,000 for the first offense, \$2,500 for the second offense, and \$5,000 for each subsequent offense. The penalties may be imposed by the courts.

c. These penalties shall be collected and enforced in proceedings in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court governing actions for the collection of civil penalties. The Superior Court shall have jurisdiction of proceedings for the collection and enforcement of the penalty imposed by this section.

d. Appropriate disciplinary proceedings may be initiated against a public official, officer, employee or custodian against whom a penalty has been imposed.

6. Section 2 of P.L.2021, c.371 (C.47:1B-2) is amended to read as follows:

C.47:1B-2 Information redaction, nondisclosure request, enforcement.

2. a. An authorized person seeking the redaction or nondisclosure of the home address of any covered person from certain records and Internet postings consistent with section 2 of P.L.2015, c.226 (C.47:1-17), section 1 of P.L.1995, c.23 (C.47:1A-1.1), or section 6 of P.L.2001, c.404 (C.47:1A-5) shall submit a request in accordance with section 1 of P.L.2021, c.371 (C.47:1B-1) to the Office of Information Privacy through the secure portal established by the office. The address shall only be subject to redaction or nondisclosure if a request is submitted to and approved by the Director of the Office of Information Privacy.

b. (1) A public agency shall redact or cease to disclose, in accordance with section 6 of P.L.2001, c.404 (C.47:1A-5) and section 1 of P.L.1995, c.23 (C.47:1A-1.1), respectively, the home address of a covered person approved by the Office of Information Privacy not later than 30 days following the approval. A public agency shall also discontinue the redaction or nondisclosure of the home address of any covered person for whom a revocation request has been approved not later than 30 days following the approval.

(2) A custodian of a public agency who makes a reasonable effort to comply with this subsection shall be presumed to have acted without willful, purposeful, or reckless disregard of the law.

c. An immediate family member who has sought and received approval under subsection a. of this section and who no longer resides with the active, formerly active, or retired judicial officer, law enforcement officer, child protective investigator in the Division of Child Protection and Permanency, or prosecutor shall submit through the portal a revocation request not later than 30 days from the date on which the immediate family member no longer resided with the judicial officer, law enforcement officer, child protective investigator in the Division of Child Protection and Permanency, or prosecutor.

d. A person submitting a request pursuant to subsection a. of this section shall affirm in writing that the person understands that certain rights, duties, and obligations are affected as a result of the request, including:

(1) the receipt of certain notices from non-governmental entities as would otherwise be required pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.);

(2) the signing of petitions related to the nomination or election of a candidate to public office or related to any public question;

(3) the eligibility or requirements related to seeking or accepting the nomination for election or election to public office, or the appointment to any public position;

(4) the sale or purchase of a home or other property, recordation of a judgment, lien or other encumbrance on real or other property, and any relief granted based thereon;

(5) the ability to be notified of any class action suit or settlement; and

(6) any other legal, promotional, or official notice which would otherwise be provided to the person but for the redaction or nondisclosure of such person's home address pursuant to subsection a. of this section.

C.47:1A-5.1 Verified complaint, government records, requestor with intention to interrupt government functioning, protective order.

7. a. Notwithstanding any other law or rule or regulation to the contrary, whenever there is filed a verified complaint to the Superior Court of the county in which the request for access to government records was made under P.L.1963, c.73 (C.47:1A-1 et seq.) alleging that a requestor has sought records with the intent to substantially interrupt the performance of government function, the court may issue a protective order limiting the number and scope of requests the requestor may make or order such other relief as it deems appropriate, including referral of the matter to mediation or a waiver of the required response time. The court may issue the protective order if it finds by clear and convincing evidence that the requestor has sought records under P.L.1963, c.73 (C.47:1A-1 et seq.) with the intent to substantially interrupt the performance of government function. The complaint shall be accompanied by a declaration of facts by the public agency withholding the records demonstrating that it has complied with P.L.1963, c.73 (C.47:1A-1 et seq.) and has made a good faith effort to reach an informal resolution of the issues relating to the records requests.

The requestor shall have notice and an opportunity to answer the allegations set forth in the petition submitted by the public agency.

The public agency shall have the burden of proof by clear and convincing evidence.

The court's consideration of a public agency's complaint for relief shall proceed in a summary or expedited manner.

b. The order specified in subsection a. of this section may limit, or, in appropriate circumstances, eliminate the public agency's duty to respond to government records requests from the requestor in the future.

c. Requests for government records filed by a labor organization or by a contractor signatory to a collective bargaining agreement seeking information material to the enforcement of State or federal statutes or regulations regarding, but not limited to, wage and hour protections, workplace safety, or public procurement and public bidding, including, but not limited to, requests for certified payrolls or information about all bids submitted in response to a public procurement process subsequent to the deadline for the submission of all bids for that solicitation, when the request by the labor organization or contractor signatory is not sought in connection to or in furtherance of discovery requests in a court proceeding, shall not

be considered to be intended to interrupt government functions, and shall not form the basis for the filing of a complaint under this section.

C.47:1A-5.3 Applicability.

8. a. The provisions of this section shall apply only to the New Jersey Division of Elections, the New Jersey Election Law Enforcement Commission, County Boards of Elections, County Superintendents of Elections, County Clerks, Municipal Clerks, Fire District Board Clerks, School District Business Administrators, and School District Board Secretaries, hereafter referred to as an “election agency” or “election agencies.” Except as otherwise provided for in this section, all provisions of this act, P.L.2024, c.16 (C.47:1A-5.1 et al.), shall apply to all election agencies. Nothing herein shall be construed to mean that an election agency is required to provide a record in response to a request for records, unless it has made or received and maintains said requested record pursuant to law or regulation.

b. Notwithstanding any other law, rule, or regulation to the contrary, except as otherwise provided in sections 2 and 3 of P.L.2021, c.371 (C.47:1B-1 et seq.), subsection b. of section 1 of P.L.1994, c.148 (C.19:31-3.2), or in any rules or regulations promulgated by the Secretary of State pursuant to subsection f. of this section, the following shall be records for which the provided information shall not be redacted by an election agency except for voter signatures, Social Security numbers, driver license numbers, and non-driver identification numbers:

- (1) Voter registration forms and forms changing the provided information thereof;
- (2) Party affiliation forms and forms changing the provided information thereof;
- (3) Applications for a vote-by-mail ballot, except as otherwise provided in sections 3 and 13 of P.L.2020, c.70 (C.19:63-1 et seq.);
- (4) Forms or reports submitted to the Election Law Enforcement Commission;
- (5) Nominating petitions for any candidate for any elected office, which shall be provided in a manner that includes voter signatures on such petitions;
- (6) Petitions to recall an elected official, which shall be provided in a manner that includes voter signatures on such petitions;
- (7) Petitions or submissions for any public question or referenda to be considered by voters, which shall be provided in a manner that includes voter signatures on such petitions;
- (8) Any submissions, responses, objections, or challenges pertaining to a record referred to in this subsection; and
- (9) Any addendums, amendments, corrections, withdrawals, or accompanying forms or submissions pertaining to a record referred to in this subsection.

c. Notwithstanding any other law, rule, or regulation to the contrary, the following shall be records and information that an election agency shall make available to requestors for immediate access and transmission via email as soon as possible, but not later than two business days after receipt of the request, provided the request is not for a commercial purpose, for which a fee shall not be charged nor collected:

- (1) Nominating petitions for any candidate for any elected office filed with the election agency within the preceding 90 days of the date the request is received;
- (2) Petitions to recall an elected official filed with the election agency within the preceding 90 days of the date the request is received;
- (3) Petitions or submissions for any public question or referenda to be considered by voters filed with the election agency within the preceding 90 days of the date the request is received;
- (4) Any submissions, responses, objections, or challenges filed with the election agency within the preceding 90 days pertaining to a record referred to in this subsection;

(5) Any addendums, amendments, corrections, withdrawals, or accompanying forms or submissions filed with the election agency within the preceding 90 days pertaining to a record referred to in this subsection; and

(6) The inspection and transmission deadline requirements of this subsection shall be deemed satisfied if an election agency posts on its website the records and information referred to in this subsection.

d. Notwithstanding any other law, rule, or regulation to the contrary, the following in paragraphs (1) through (4) of this subsection shall be records and information that an election agency shall make available to requestors for immediate access and transmission via email as soon as possible, provided the request pertains only to an election to be held within 16 days after the date of the request and is not for a commercial purpose. The transmission shall be not later than two business days after receipt of the request when said request is made between one and 15 days before the date of the election pertaining to the request. For any request submitted the day before an election by noon, the request shall be completed by noon the day of the election. A fee shall not be charged nor collected. This subsection shall apply to:

(1) Lists, in a format capable of being sorted by the requestor, of registered voters, including their name, address, party affiliation, and municipal voting ward and district, who have requested, been mailed, or returned a vote-by-mail ballot, including the dates the ballot was requested by the voter, mailed to the voter, and received by the appropriate election agency;

(2) Lists, in a format capable of being sorted by the requestor, of registered voters, including their name, address, party affiliation, and municipal voting ward and district, who have cast a vote during the early voting period, including the date and polling location the vote was cast;

(3) The inspection and transmission deadline requirements of this subsection shall be deemed satisfied if an election agency posts on its website the records and information referred to in this subsection; and

(4) Whenever the requirements of this subsection would cause a voter's privacy to be violated, the information shall be provided in a manner that maintains the privacy of the voter.

e. The following records or information shall not be subject to disclosure pursuant to a request for public records:

(1) Ballots marked by a voter, vote tabulations, or election results for any election prior to the time of the closing of the polls on the date of the election, except as otherwise provided for by law, rule, or regulation; and

(2) Manuals instructions, specifications, technical information, or programming code of computers, software, applications, networks, tablets, voting machines, printers, scanners, and any other equipment, systems, policies or plans used for the conduct of elections, the disclosure of which, could have the potential to jeopardize the security, integrity or accuracy of the conduct of elections, tabulation of votes, or determination of election results, except as otherwise provided for by law, rule, or regulation, or in response to a subpoena or order of a court or tribunal of competent jurisdiction.

f. The Secretary of State may adopt regulations necessary to effectuate the purposes of this act, which regulations shall be effective immediately upon filing with the Office of Administrative Law for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.47:1A-7.1 Complaints, appeals, Government Records Council, Superior Court, anonymous, fictitious identity, dismissal with prejudice.

9. a. All complaints and appeals pending before the Government Records Council or the Superior Court filed prior to the effective date of P.L.2024, c.16 (C.47:1A-5.1 et al.), either anonymously or using a fictitious name or identity, may be dismissed with prejudice upon a motion by the public agency, unless the complainant files an amendment to their complaint that accurately identifies their name and mailing address within 90 days of the effective date of P.L.2024, c.16 (C.47:1A-5.1 et al.).

b. The parties to any complaint or appeal pending before the Government Records Council, the Superior Court or the Supreme Court of New Jersey filed prior to the effective date of P.L.2024, c.16 (C.47:1A-5.1 et al.), shall be permitted to file an amendment to their respective complaints and answers within 90 days of the effective date of P.L.2024, c.16 (C.47:1A-5.1 et al.).

C.47:1A-5.2 Prior written consent, subject, legal next of kin, indecent, graphic photograph, video footage.

10. a. A person who has obtained a photograph or video recording pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), and who is not a subject of the photograph or video footage, shall not disclose any indecent or graphic images of the subject's intimate parts, captured by the photograph or recording, without the prior written consent of the subject of the photograph or video footage or written consent of the legal next of kin if the subject is deceased.

b. A person who knowingly violates the provisions of subsection a. of this section shall be guilty of a disorderly persons offense.

c. As used in this section:

“Disclose” means to sell, manufacture, give, provide, lend, mail, deliver, transfer, publish, post, distribute, circulate, disseminate, present, exhibit, advertise, offer, share, or make available through the Internet or by any other means, whether or not for pecuniary gain.

“Indecent or graphic” means images depicting exposed intimate parts in a manner that would be clearly visible to a reasonable person.

“Intimate parts” means the following body parts: sexual organs, genital area, anal area, inner thigh, groin, buttock, or breast of a person.

“Subject of the photograph or video footage” means a person who appears in the photograph or video recording.

11. a. There is hereby appropriated \$4,000,000 from the State General Fund to the Department of Community Affairs to provide grants to political subdivisions of the State for the purpose of making government records that are accessible under P.L.1963, c.73 (C.47:1A-1 et seq.) available electronically, including through the use of shared services agreements.

b. There is hereby appropriated \$4,000,000 from the State General Fund to the Department of Community Affairs for the Government Records Council.

c. There is hereby appropriated \$2,000,000 from the State General Fund to the Department of Community Affairs for the Government Records Council to effectuate the purposes of section 8 of P.L.2001, c.404 (C.47:1A-7) as amended by section 4 of P.L.2024, c.16 (C.47:1A-7).

12. This act shall take effect 90 days following the date of enactment.

Approved June 5, 2024.

# SENATE, No. 2930

## STATE OF NEW JERSEY

### 221st LEGISLATURE

INTRODUCED MARCH 4, 2024

**Sponsored by:**

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**SYNOPSIS**

Makes various changes to process for access to government records; appropriates \$8 million.

**CURRENT VERSION OF TEXT**

As introduced.



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2

1 AN ACT concerning access to government records, amending and  
2 supplementing various parts of the statutory law, and making an  
3 appropriation.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 1 of P.L.1963, c.73 (C.47:1A-1) is amended to read  
9 as follows:

10 1. The Legislature finds and declares it to be the public policy  
11 of this State that:

12 government records shall be readily accessible for inspection,  
13 copying, or examination by the citizens of this State, with certain  
14 exceptions, for the protection of the public interest, and any  
15 limitations on the right of access accorded by P.L.1963, c.73  
16 (C.47:1A-1 et seq.) as amended and supplemented, shall be  
17 construed in favor of the public's right of access;

18 all government records shall be subject to public access unless  
19 exempt from such access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as  
20 amended and supplemented; any other statute; resolution of either  
21 or both houses of the Legislature; regulation promulgated under the  
22 authority of any statute or Executive Order of the Governor;  
23 Executive Order of the Governor; Rules of Court; any federal law,  
24 federal regulation, or federal order;

25 a public agency has a responsibility and an obligation to  
26 safeguard from public access a citizen's personal information with  
27 which it has been entrusted, or information that might reasonably  
28 lead to disclosure of a person's personal information, when  
29 disclosure thereof would violate the citizen's reasonable expectation  
30 of privacy, or when the public agency has reason to believe that  
31 disclosure of such personal information may result in harassment,  
32 unwanted solicitation, identity theft, or opportunities for other  
33 criminal acts; and

34 nothing contained in P.L.1963, c.73 (C.47:1A-1 et seq.), as  
35 amended and supplemented, shall be construed as affecting in any  
36 way the common law right of access to any record, including but  
37 not limited to criminal investigatory records of a law enforcement  
38 agency.

39 (cf: P.L.2001, c.404, s.1)

40  
41 2. Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended to  
42 read as follows:

43 1. As used in P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and  
44 supplemented:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Biotechnology" means any technique that uses living  
2 organisms, or parts of living organisms, to make or modify  
3 products, to improve plants or animals, or to develop micro-  
4 organisms for specific uses; including the industrial use of  
5 recombinant DNA, cell fusion, and novel bioprocessing techniques.

6 "Child protective investigator in the Division of Child Protection  
7 and Permanency" means an employee of the Division of Child  
8 Protection and Permanency in the Department of Children and  
9 Families whose primary duty is to investigate reports of child abuse  
10 and neglect, or any other employee of the Department of Children  
11 and Families whose duties include investigation, response to, or  
12 review of allegations of child abuse and neglect.

13 "Commercial purpose" means the direct or indirect use of any  
14 part of a government record for sale, resale, solicitation, rent or  
15 lease of a service, or any use by which the user expects a profit  
16 either through commission, salary, or fee. "Commercial purpose"  
17 shall not include using, distributing, gathering, procuring,  
18 transmitting, compiling, editing, disseminating, or publishing of  
19 information or data by the news media, or any parent company,  
20 subsidiary, or affiliate of any news media, as defined by section 2 of  
21 P.L.1977, c.253 (C.2A:84A-21a), or by any news, journalistic,  
22 educational, scientific, scholarly, or governmental organization, or  
23 by any person authorized to act on behalf of a candidate committee,  
24 joint candidate committee, political committee, continuing political  
25 committee, political party committee, or legislative leadership  
26 committee, as defined by section 3 of P.L.1973, c.83 (C.19:44A-3),  
27 registered with the New Jersey Election Law Enforcement  
28 Commission.

29 "Constituent" means any State resident or other person  
30 communicating with a member of the Legislature.

31 "Criminal investigatory record" means a record which is not  
32 required by law to be made, maintained or kept on file that is held  
33 by a law enforcement agency which pertains to any criminal  
34 investigation or related civil enforcement proceeding.

35 "Custodian of a government record" or "custodian" means in the  
36 case of a municipality, the municipal clerk and in the case of any  
37 other public agency, the officer officially designated by formal  
38 action of that agency's director or governing body, as the case may  
39 be.

40 "Data broker" means a business that knowingly collects and sells  
41 to third parties the personal information of a consumer with whom  
42 the business does not have a direct relationship.

43 "Government record" or "record" means any paper, written or  
44 printed book, document, drawing, map, plan, photograph,  
45 microfilm, data processed or image processed document,  
46 information stored or maintained electronically or by sound-  
47 recording or in a similar device, or any copy thereof, that has been  
48 made, maintained or kept on file in the course of his or its official

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1 business by any officer, commission, agency or authority of the  
2 State or of any political subdivision thereof, including subordinate  
3 boards thereof, or that has been received in the course of his or its  
4 official business by any such officer, commission, agency, or  
5 authority of the State or of any political subdivision thereof,  
6 including subordinate boards thereof. The terms shall not include  
7 inter-agency or intra-agency advisory, consultative, **[or]**  
8 deliberative, or draft material, including notes generated and used to  
9 prepare final reports, documents, or records.

10 A government record shall not include the following information  
11 which is deemed to be confidential for the purposes of P.L.1963,  
12 c.73 (C.47:1A-1 et seq.) as amended and supplemented:

13 information received by a member of the Legislature from a  
14 constituent or information held by a member of the Legislature  
15 concerning a constituent, including, but not limited to, information  
16 in written form or contained in any e-mail or computer data base, or  
17 in any telephone record whatsoever, unless it is information the  
18 constituent is required by law to transmit;

19 any memorandum, correspondence, notes, report or other  
20 communication prepared by, or for, the specific use of a member of  
21 the Legislature in the course of the member's official duties, except  
22 that this provision shall not apply to an otherwise publicly-  
23 accessible report which is required by law to be submitted to the  
24 Legislature or its members;

25 any copy, reproduction or facsimile of any photograph, negative  
26 or print, including instant photographs and videotapes of the body,  
27 or any portion of the body, of a deceased person, taken by or for the  
28 medical examiner at the scene of death or in the course of a post  
29 mortem examination or autopsy made by or caused to be made by  
30 the medical examiner except:

31 when used in a criminal action or proceeding in this State which  
32 relates to the death of that person,

33 for the use as a court of this State permits, by order after good  
34 cause has been shown and after written notification of the request  
35 for the court order has been served at least five days before the  
36 order is made upon the county prosecutor for the county in which  
37 the post mortem examination or autopsy occurred,

38 for use in the field of forensic pathology or for use in medical or  
39 scientific education or research, or

40 for use by any law enforcement agency in this State or any other  
41 state or federal law enforcement agency;

42 criminal investigatory records;

43 the portion of any criminal record concerning a person's  
44 detection, apprehension, arrest, detention, trial or disposition for  
45 unlawful manufacturing, distributing, or dispensing, or possessing  
46 or having under control with intent to manufacture, distribute, or  
47 dispense, marijuana or hashish in violation of paragraph (11) of  
48 subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or

1 hashish in violation of paragraph (12) of subsection b. of that  
2 section, or a violation of either of those paragraphs and a violation  
3 of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or  
4 subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for  
5 distributing, dispensing, or possessing, or having under control with  
6 intent to distribute or dispense, on or within 1,000 feet of any  
7 school property, or on or within 500 feet of the real property  
8 comprising a public housing facility, public park, or public  
9 building, or for obtaining, possessing, using, being under the  
10 influence of, or failing to make lawful disposition of marijuana or  
11 hashish in violation of paragraph (3) or (4) of subsection a., or  
12 subsection b., or subsection c. of N.J.S.2C:35-10, or for a violation  
13 of any of those provisions and a violation of N.J.S.2C:36-2 for  
14 using or possessing with intent to use drug paraphernalia with that  
15 marijuana or hashish;

16 victims' records, except that a victim of a crime shall have access  
17 to the victim's own records;

18 any written request by a crime victim for a record to which the  
19 victim is entitled to access as provided in this section, including,  
20 but not limited to, any law enforcement agency report, domestic  
21 violence offense report, and temporary or permanent restraining  
22 order;

23 personal firearms records, except for use by any person  
24 authorized by law to have access to these records or for use by any  
25 government agency, including any court or law enforcement  
26 agency, for purposes of the administration of justice;

27 personal identifying information received by the Division of Fish  
28 and Wildlife in the Department of Environmental Protection in  
29 connection with the issuance of any license authorizing hunting  
30 with a firearm~~].~~ For the purposes of this paragraph, personal  
31 identifying information shall include, but not be limited to, identity,  
32 name, address, social security number, telephone number, fax  
33 number, driver's license number, email address, or social media  
34 address of any applicant or licensee~~];~~

35 trade secrets and proprietary commercial or financial information  
36 obtained from any source. For the purposes of this paragraph, trade  
37 secrets shall include ~~data processing~~ software, applications, and  
38 code obtained by a public body under a licensing agreement which  
39 prohibits its disclosure;

40 any record within the attorney-client privilege. This paragraph  
41 shall not be construed as exempting from access attorney or  
42 consultant bills or invoices except that such bills or invoices may be  
43 redacted to remove any information protected by the attorney-client  
44 privilege;

45 administrative or technical information regarding computer  
46 hardware, tablets, telephones, and devices, or software,

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1 applications, and networks [which, if disclosed, would jeopardize  
2 computer security] , or related technologies;  
3 emergency or security information or procedures for any  
4 buildings or facility which, if disclosed, would jeopardize security  
5 of the building or facility or persons therein;  
6 security measures and surveillance techniques which, if  
7 disclosed, would create a risk to the safety of persons, property,  
8 electronic data or software;  
9 security alarm system activity and access reports, including  
10 video footage, for any public building, facility, or grounds unless  
11 the request identifies a specific incident that occurred, a specific  
12 date, and a limited time period at a particular public building,  
13 facility, or grounds;  
14 information which, if disclosed, would give an advantage to  
15 competitors or bidders, including detailed or itemized cost estimates  
16 prior to bid opening;  
17 information generated by or on behalf of public employers or  
18 public employees in connection with any sexual harassment  
19 complaint filed with a public employer or with any grievance filed  
20 by or against an individual or in connection with collective  
21 negotiations, including documents and statements of strategy or  
22 negotiating position;  
23 information related to strategies or negotiating positions that  
24 would unfairly prejudice or impair contract negotiations;  
25 information which is a communication between a public agency  
26 and its insurance carrier, administrative service organization or risk  
27 management office;  
28 information which is to be kept confidential pursuant to court  
29 order;  
30 any copy of form DD-214, NGB-22, or that form, issued by the  
31 United States Government, or any other certificate of honorable  
32 discharge, or copy thereof, from active service or the reserves of a  
33 branch of the Armed Forces of the United States, or from service in  
34 the organized militia of the State, that has been filed by an  
35 individual with a public agency, except that a veteran or the  
36 veteran's spouse or surviving spouse shall have access to the  
37 veteran's own records;  
38 any copy of an oath of allegiance, oath of office or any  
39 affirmation taken upon assuming the duties of any public office, or  
40 that oath or affirmation, taken by a current or former officer or  
41 employee in any public office or position in this State or in any  
42 county or municipality of this State, including members of the  
43 Legislative Branch, Executive Branch, Judicial Branch, and all law  
44 enforcement entities, except that the full name, title, and oath date  
45 of that person contained therein shall not be deemed confidential;  
46 that portion of any document which discloses the social security  
47 number, credit card number, **[unlisted]** debit card number, bank  
48 account information, month and day of birth, email address, any

1 telephone number, or driver license number of any person, or, in  
2 accordance with section 2 of P.L.2021, c.371 (C.47:1B-2), that  
3 portion of any document which discloses the home address, whether  
4 a primary or secondary residence, of any active, formerly active, or  
5 retired judicial officer, law enforcement officer, child protective  
6 investigator in the Division of Child Protection and Permanency, or  
7 prosecutor, or, as defined in section 1 of P.L.2021, c.371 (C.47:1B-  
8 1), any immediate family member thereof; except for use by any  
9 government agency, including any court or law enforcement  
10 agency, in carrying out its functions, or any private person or entity  
11 acting on behalf thereof, or any private person or entity seeking to  
12 enforce payment of court-ordered child support; except with respect  
13 to the disclosure of driver information by the New Jersey Motor  
14 Vehicle Commission as permitted by section 2 of P.L.1997, c.188  
15 (C.39:2-3.4); except with respect to the disclosure of information  
16 included in records and documents maintained by the Department of  
17 the Treasury in connection with the State's business registry  
18 programs; and except that a social security number contained in a  
19 record required by law to be made, maintained or kept on file by a  
20 public agency shall be disclosed when access to the document or  
21 disclosure of that information is not otherwise prohibited by State  
22 or federal law, regulation or order or by State statute, resolution of  
23 either or both houses of the Legislature, Executive Order of the  
24 Governor, rule of court or regulation promulgated under the  
25 authority of any statute or executive order of the Governor;

26 that portion of any document that discloses the personal  
27 identifying information of any person provided to a public agency  
28 for the sole purpose of receiving official notifications;

29 a list of persons identifying themselves as being in need of  
30 special assistance in the event of an emergency maintained by a  
31 municipality for public safety purposes pursuant to section 1 of  
32 P.L.2017, c.266 (C.40:48-2.67), and their personal identifying  
33 information; [and]

34 a list of persons identifying themselves as being in need of  
35 special assistance in the event of an emergency maintained by a  
36 county for public safety purposes pursuant to section 6 of P.L.2011,  
37 c.178 (C.App.A:9-43.13), and their personal identifying  
38 information;

39 that portion of any document that requires and would disclose  
40 personal identifying information of persons under the age of 18  
41 years, including names, except with respect to the disclosure of  
42 driver information by the New Jersey Motor Vehicle Commission  
43 as permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4) or the  
44 disclosure of driver information to any insurer or insurance support  
45 organization, or a self-insured entity, or its agents, employees, or  
46 contractors, for use in connection with claims investigation  
47 activities, antifraud activities, rating, or underwriting, and except  
48 with respect to the disclosure of voter information on voter and

1 election records pursuant to section 11 of P.L. , c. (C.) (pending  
2 before the Legislature as this bill);

3 personal identifying information disclosed on domestic animal  
4 permits, licenses, and registration;

5 structured reference data that helps to sort and identify attributes  
6 of the information it describes, referred to as metadata, or any  
7 extrapolation or compilation thereof;

8 New Jersey State Firemen's Association financial relief  
9 applications;

10 owner and maintenance manuals;

11 data classified under the "Health Insurance Portability and  
12 Accountability Act of 1996," Pub.L.104-191;

13 logs of telephone calls, emails, or texts; and

14 electronic or paper calendars for individuals.

15 A government record shall not include, with regard to any public  
16 institution of higher education, the following information which is  
17 deemed to be privileged and confidential:

18 pedagogical, scholarly and/or academic research records and/or  
19 the specific details of any research project conducted under the  
20 auspices of a public higher education institution in New Jersey,  
21 including, but not limited to, research, development information,  
22 testing procedures, or information regarding test participants,  
23 related to the development or testing of any pharmaceutical or  
24 pharmaceutical delivery system, except that a custodian may not  
25 deny inspection of a government record or part thereof that gives  
26 the name, title, expenditures, source and amounts of funding and  
27 date when the final project summary of any research will be  
28 available;

29 test questions, scoring keys and other examination data  
30 pertaining to the administration of an examination for employment  
31 or academic examination;

32 records of pursuit of charitable contributions or records  
33 containing the identity of a donor of a gift if the donor requires non-  
34 disclosure of the donor's identity as a condition of making the gift  
35 provided that the donor has not received any benefits of or from the  
36 institution of higher education in connection with such gift other  
37 than a request for memorialization or dedication;

38 valuable or rare collections of books or documents obtained by  
39 gift, grant, bequest or devise conditioned upon limited public  
40 access;

41 information contained on individual admission applications; and  
42 information concerning student records or grievance or  
43 disciplinary proceedings against a student to the extent disclosure  
44 would reveal the identity of the student.

45 "Judicial officer" means any active, formerly active, or retired  
46 federal, state, county, or municipal judge, including a judge of the  
47 Tax Court and any other court of limited jurisdiction established,  
48 altered, or abolished by law, a judge of the Office of Administrative

1 Law, a judge of the Division of Workers' Compensation, and any  
2 other judge established by law who serves in the executive branch.

3 "Law enforcement agency" means a public agency, or part  
4 thereof, determined by the Attorney General to have law  
5 enforcement responsibilities.

6 "Law enforcement officer" means a person whose public duties  
7 include the power to act as an officer for the detection,  
8 apprehension, arrest, and conviction of offenders against the laws of  
9 this State.

10 "Member of the Legislature" means any person elected or  
11 selected to serve in the New Jersey Senate or General Assembly.

12 "Personal firearms record" means any information contained in a  
13 background investigation conducted by the chief of police, the  
14 county prosecutor, or the Superintendent of State Police, of any  
15 applicant for a permit to purchase a handgun, firearms identification  
16 card license, or firearms registration; any application for a permit to  
17 purchase a handgun, firearms identification card license, or firearms  
18 registration; any document reflecting the issuance or denial of a  
19 permit to purchase a handgun, firearms identification card license,  
20 or firearms registration; and any permit to purchase a handgun,  
21 firearms identification card license, or any firearms license,  
22 certification, certificate, form of register, or registration statement.  
23 For the purposes of this paragraph, information contained in a  
24 background investigation shall include, but not be limited to,  
25 identity, name, address, social security number, [phone] telephone  
26 number, fax number, driver's license number, email address, or  
27 social media address of any applicant, licensee, registrant or permit  
28 holder.

29 "Personal identifying information" means information that may  
30 be used, alone or in conjunction with any other information, to  
31 identify a specific individual. For purposes of this act, personal  
32 identifying information shall include, but shall not be limited to, the  
33 following data elements: name, social security number, credit card  
34 number, debit card number, bank account information, month and  
35 day of birth, email address, any telephone number, the street  
36 address portion of any person's primary or secondary home address,  
37 or driver license number of any person.

38 "Public agency" or "agency" means any of the principal  
39 departments in the Executive Branch of State Government, and any  
40 division, board, bureau, office, commission or other instrumentality  
41 within or created by such department; the Legislature of the State  
42 and any office, board, bureau or commission within or created by  
43 the Legislative Branch; and any independent State authority,  
44 commission, instrumentality or agency. The terms also mean any  
45 political subdivision of the State or combination of political  
46 subdivisions, and any division, board, bureau, office, commission or  
47 other instrumentality within or created by a political subdivision of  
48 the State or combination of political subdivisions, and any

1 independent authority, commission, instrumentality or agency  
2 created by a political subdivision or combination of political  
3 subdivisions.

4 "Victim of a crime" means a person who has suffered personal or  
5 psychological injury or death or incurs loss of or injury to personal  
6 or real property as a result of a crime, or if such a person is  
7 deceased or incapacitated, a member of that person's immediate  
8 family.

9 "Victim's record" means an individually identifiable file or  
10 document held by a victims' rights agency which pertains directly to  
11 a victim of a crime except that a victim of a crime shall have access  
12 to the victim's own records.

13 "Victims' rights agency" means a public agency, or part thereof,  
14 the primary responsibility of which is providing services, including,  
15 but not limited to, food, shelter, or clothing, medical, psychiatric,  
16 psychological or legal services or referrals, information and referral  
17 services, counseling and support services, or financial services to  
18 victims of crimes, including victims of sexual assault, domestic  
19 violence, violent crime, child endangerment, child abuse or child  
20 neglect, and the Victims of Crime Compensation Board, established  
21 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as  
22 the Victims of Crime Compensation Office pursuant to P.L.2007,  
23 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.  
24 (cf: P.L.2023, c.113, s.1)

25

26 3. Section 6 of P.L.2001, c.404 (C.47:1A-5) is amended to read  
27 as follows:

28 6. a. The custodian of a government record shall permit the  
29 record to be inspected, examined, and copied by any person during  
30 regular business hours; or in the case of a municipality having a  
31 population of 5,000 or fewer according to the most recent federal  
32 decennial census, a board of education having a total district  
33 enrollment of 500 or fewer, or a public authority having less than  
34 \$10 million in assets, during not less than six regular business hours  
35 over not less than three business days per week or the entity's  
36 regularly-scheduled business hours, whichever is less; unless a  
37 government record is exempt from public access by: P.L.1963, c.73  
38 (C.47:1A-1 et seq.) as amended and supplemented; any other  
39 statute; resolution of either or both houses of the Legislature;  
40 regulation promulgated under the authority of any statute or  
41 Executive Order of the Governor; Executive Order of the Governor;  
42 Rules of Court; any federal law; federal regulation; or federal order.  
43 Prior to allowing access to any government record, the custodian  
44 thereof shall redact from that record any information which  
45 discloses the social security number, credit card number, **[unlisted]**  
46 telephone number, or driver license number of any person, or, in  
47 accordance with section 2 of P.L.2021, c.371 (C.47:1B-2), the home  
48 address, whether a primary or secondary residence, of any active,

1 formerly active, or retired judicial officer, prosecutor, law  
2 enforcement officer, or child protective investigator in the Division  
3 of Child Protection and Permanency, or, as defined in section 1 of  
4 P.L.2021, c.371 (C.47:1B-1), any immediate family member  
5 thereof; except for use by any government agency, including any  
6 court or law enforcement agency, in carrying out its functions, or  
7 any private person or entity acting on behalf thereof, or any private  
8 person or entity seeking to enforce payment of court-ordered child  
9 support; except with respect to the disclosure of driver information  
10 by the New Jersey Motor Vehicle Commission as permitted by  
11 section 2 of P.L.1997, c.188 (C.39:2-3.4); and except that a social  
12 security number contained in a record required by law to be made,  
13 maintained or kept on file by a public agency shall be disclosed  
14 when access to the document or disclosure of that information is not  
15 otherwise prohibited by State or federal law, regulation or order or  
16 by State statute, resolution of either or both houses of the  
17 Legislature, Executive Order of the Governor, rule of court or  
18 regulation promulgated under the authority of any statute or  
19 executive order of the Governor. Prior to allowing access to any  
20 government record, the custodian shall redact from that record any  
21 information which discloses, or which might reasonably lead to  
22 disclosure of the telephone number, email address, or any medical,  
23 financial, or personal information of a member of the public when  
24 the disclosure thereof would violate the citizen's reasonable  
25 expectation of privacy or when the public agency has a reason to  
26 believe that disclosure of such personal information may result in  
27 harassment, unwanted solicitation, identity theft, or opportunities  
28 for other criminal acts. Except where an agency can demonstrate an  
29 emergent need, a regulation that limits access to government  
30 records shall not be retroactive in effect or applied to deny a request  
31 for access to a government record that is pending before the agency,  
32 the council or a court at the time of the adoption of the regulation.

33 b. (1) A copy or copies of a government record may be  
34 purchased by any person upon payment of the fee prescribed by law  
35 or regulation.

36 Except as otherwise provided by law or regulation and except as  
37 provided in paragraph (2) of this subsection, the fee assessed for the  
38 duplication of a government record embodied in the form of printed  
39 matter shall be \$0.05 per letter size page or smaller, and \$0.07 per  
40 legal size page or larger. **【**If a public agency can demonstrate that  
41 its actual costs for duplication of a government record exceed the  
42 foregoing rates, the public agency shall be permitted to charge the  
43 actual cost of duplicating the record. The actual cost of duplicating  
44 the record, upon which all copy fees are based, shall be the cost of  
45 materials and supplies used to make a copy of the record, but shall  
46 not include the cost of labor or other overhead expenses associated  
47 with making the copy except as provided for in subsection c. of this  
48 section. **】** Access to electronic records and non-printed materials

1 shall be provided free of charge , but the public agency may charge  
2 for the actual costs of any needed supplies such as computer discs.  
3 No fee shall be charged if the request is completed by directing the  
4 requestor to the requested government record that is available on  
5 the public agency's website or the website of another public agency.

6 (2) No fee shall be charged to a victim of a crime for a copy or  
7 copies of a record to which the crime victim is entitled to access, as  
8 provided in section 1 of P.L.1995, c.23 (C.47:1A-1.1).

9 c. Whenever the nature, format, manner of collation, or volume  
10 of a government record embodied in the form of printed matter to  
11 be inspected, examined, or copied pursuant to this section is such  
12 that the record cannot be reproduced by ordinary document copying  
13 equipment in ordinary business size or involves an extraordinary  
14 expenditure of time and effort to accommodate the request, the  
15 public agency may charge, in addition to the actual cost of  
16 duplicating the record, a special service charge that **【shall be**  
17 **reasonable and】** shall be based upon the actual direct cost of  
18 providing the copy or copies **【**; provided, however, that in the case  
19 of a municipality, rates for the duplication of particular records  
20 when the actual cost of copying exceeds the foregoing rates shall be  
21 established in advance by ordinance**】**, and such special service  
22 charge shall be presumed to be reasonable.

23 The requestor shall have the opportunity to review and object to  
24 **【the】** any fee or charge prior to it being incurred.

25 d. A custodian shall permit access to a government record and  
26 provide a copy thereof in the medium or format requested if the  
27 public agency maintains the record in that medium or format. If the  
28 public agency does not maintain the record in the medium or format  
29 requested, the custodian **【shall】**, at the custodian's discretion, may  
30 either convert the record to the medium or format requested or  
31 provide a copy in some other meaningful medium or format. **【If a**  
32 request is for a record: (1) in a medium not routinely used by the  
33 agency; (2) not routinely developed or maintained by an agency; or  
34 (3) requiring a substantial amount of manipulation or programming  
35 of information technology, the agency may charge, in addition to  
36 the actual cost of duplication, a special charge that shall be  
37 reasonable and shall be based on the cost for any extensive use of  
38 information technology, or for the labor cost of personnel providing  
39 the service, that is actually incurred by the agency or attributable to  
40 the agency for the programming, clerical, and supervisory  
41 assistance required, or both.**】** If the public agency does not  
42 maintain the record in the electronic medium or format requested,  
43 the custodian shall be under no obligation to convert the record to  
44 the electronic medium or format requested but shall, at a minimum,  
45 provide a copy in the format maintained by the public agency.

46 e. Immediate access ordinarily shall be granted to budgets,  
47 bills, vouchers, contracts, including collective negotiations

1 agreements and individual employment contracts, and public  
2 employee salary and overtime information. Immediate access to  
3 government records shall not be required to be granted for  
4 documents over 12 months old.

5 Government records shall be made available to the public on a  
6 publicly available website to the extent feasible. A public agency  
7 may enter into shared services agreements for providing certain  
8 government records electronically.

9 If the government record is readily available on a public  
10 agency's website, the custodian may require the requestor to obtain  
11 the record from the website, which shall contain a search bar feature  
12 on its home page. The custodian shall provide the requestor with  
13 directions to assist in finding the record on the website, including  
14 providing the website URL address and the location on the website  
15 of the search bar, menu button, tab, link, landing page or equivalent,  
16 which contains the requested record. The request shall be deemed  
17 fulfilled upon notification by the custodian to the requestor of the  
18 availability and location on the website of the requested  
19 information.

20 f. The custodian of a public agency shall adopt a form for the  
21 use of any person who requests access to a government record held  
22 or controlled by the public agency. The form shall provide space  
23 for the name, address, email address and **[phone]** telephone number  
24 of the requestor and a brief description of the government record  
25 sought. A request shall be submitted by a requestor in the form  
26 adopted by the custodian and the custodian may deny a request that  
27 is not submitted in the form adopted by the custodian. A request  
28 may be submitted anonymously provided, however, that anonymous  
29 requestors shall not be permitted to institute proceedings pursuant  
30 to section 7 of P.L.2001, c.404 (C.47:1A-6).

31 The form also shall include space for a requestor to certify  
32 whether the government record will be used by that requestor or  
33 another person for a commercial purpose, and the requestor shall be  
34 required to provide this information for the request to be fulfilled.

35 All requests by a data broker or a requestor who is making a  
36 request on behalf of and for the use of a data broker shall be denied.  
37 The form also shall include space for a requestor to certify that the  
38 requestor is not a data broker or is not making the request on behalf  
39 of or for the use of a data broker, and the requestor shall be required  
40 to provide this information for the request to be fulfilled.

41 Data obtained through a records request shall not be sold.

42 The form shall include space for the custodian to indicate which  
43 record will be made available, when the record will be available,  
44 and the fees to be charged. The form shall also include the  
45 following: (1) specific directions and procedures for requesting a  
46 record; (2) a statement as to whether prepayment of fees or a  
47 deposit is required; (3) the time period within which the public  
48 agency is required by P.L.1963, c.73 (C.47:1A-1 et seq.) as

1 amended and supplemented, to make the record available; (4) a  
2 statement of the requestor's right to challenge a decision by the  
3 public agency to deny access and the procedure for filing an appeal;  
4 (5) space for the custodian to list reasons if a request is denied in  
5 whole or in part; (6) space for the requestor to sign and date the  
6 form; (7) space for the custodian to sign and date the form if the  
7 request is fulfilled or denied. The custodian may require a deposit  
8 against costs for reproducing documents sought through **【an**  
9 **anonymous】** a request whenever the custodian anticipates that the  
10 information thus requested will cost in excess of \$5 to reproduce.

11 Custodians shall provide directions on how to submit requests  
12 for government records, including any required forms, on the public  
13 agency's website.

14 Custodians shall be permitted to provide an electronic response  
15 to any electronic records request if government records are  
16 available electronically.

17 g. A request for access to a government record shall be in  
18 writing and hand-delivered, mailed, transmitted electronically, or  
19 otherwise conveyed to the appropriate custodian. A public agency  
20 may make available to the public on its website an online form,  
21 portal, or software for transmitting requests electronically. A  
22 custodian shall promptly comply with a request to inspect, examine,  
23 copy, or provide a copy of a government record. If the custodian is  
24 unable to comply with a request for access, the custodian shall  
25 indicate the specific basis therefor on the request form and promptly  
26 return it to the requestor. The custodian shall sign and date the  
27 form and provide the requestor with a copy thereof. If the  
28 custodian of a government record asserts that part of a particular  
29 record is exempt from public access pursuant to P.L.1963, c.73  
30 (C.47:1A-1 et seq.) as amended and supplemented, the custodian  
31 shall delete or excise from a copy of the record that portion which  
32 the custodian asserts is exempt from access and shall promptly  
33 permit access to the remainder of the record. **【If the government**  
34 **record requested is temporarily unavailable because it is in use or in**  
35 **storage, the custodian shall so advise the requestor and shall make**  
36 **arrangements to promptly make available a copy of the record.】** If  
37 a request for access to a government record would substantially  
38 disrupt agency operations, the custodian may deny access to the  
39 record after attempting to reach a reasonable solution with the  
40 requestor that accommodates the interests of the requestor and the  
41 agency.

42 A party to a legal proceeding may not request a government  
43 record if the record sought is the subject of a court order in the legal  
44 proceeding or if compliance would otherwise be unreasonable,  
45 oppressive, or duplicative of already pending discovery request  
46 made in that legal proceeding, and a custodian shall not be required  
47 to complete such a request. The requestor shall be required to  
48 certify whether the government record is being sought in connection

1 with a legal proceeding and identify the proceeding for the request  
2 to be fulfilled. For purposes of this provision, a party to a legal  
3 proceeding shall include a party in interest, any attorney  
4 representing that party, and any person acting as an agent for or on  
5 behalf of that party.

6 A custodian shall not be required to complete a request including  
7 for, but not limited to, mail, email, text messages, correspondence,  
8 or social media postings and messages, if the request does not  
9 identify specific individuals or accounts to be searched and is not  
10 confined to a discrete and limited time period and a specific subject  
11 matter, or if the custodian determines that the request would require  
12 research and the collection of information from the contents of  
13 government records and the creation of new government records  
14 setting forth that research and information.

15 h. Any officer or employee of a public agency who receives a  
16 request for access to a government record shall forward the request  
17 to the custodian of the record or direct the requestor to the  
18 custodian of the record. The request shall not be considered  
19 submitted until it is received by the custodian of records.

20 i. (1) Unless a shorter time period is otherwise provided by  
21 statute, regulation, or executive order, a custodian of a government  
22 record shall grant access to a government record or deny a request  
23 for access to a government record as soon as possible, but not later  
24 than seven business days after receiving the request, or 14 business  
25 days if the request is for a commercial purpose or if the records  
26 have to be reviewed by the public agency for the purpose of the  
27 agency's compliance with P.L.2020, c.125 (C.47:1B-1 et seq.), but  
28 the custodian shall notify the requestor of the additional response  
29 time within seven business days, provided that the record is  
30 currently available and not in storage or archived. The response  
31 time periods of seven or 14 business days, as established in this  
32 subsection, shall be an additional seven business days longer if the  
33 public agency is a fire district which employs one or fewer full-time  
34 employees who serve as custodians.

35 In the event a records custodian is unable to fulfill a records  
36 request due to unforeseen circumstances or circumstances that  
37 otherwise reasonably necessitate additional time to fulfill the  
38 records request, the custodian shall be entitled to a reasonable  
39 extension of any response deadline and shall notify the requestor of  
40 the time extension within seven business days after receiving the  
41 request.

42 In the event a custodian fails to respond within seven business  
43 days or 14 business days, as appropriate, after receiving a request,  
44 the failure to respond shall be deemed a denial of the request, unless  
45 the requestor has elected not to accurately identify themselves or to  
46 provide [a name,] an accurate address, email address, or telephone  
47 number [, or other means of contacting the requestor]. If the  
48 requestor has elected not to accurately identify themselves or to

1 provide **[a name,]** an accurate address, email address, or telephone  
2 number, **[or other means of contacting the requestor,]** the custodian  
3 shall not be required to respond until the requestor **[reappears**  
4 **before]** contacts the custodian seeking a response to the original  
5 request.

6 If the government record is in storage or archived, the requestor  
7 shall be so advised within seven or 14 business days, as appropriate,  
8 after the custodian receives the request. The requestor shall be  
9 advised by the custodian when the record can be made available,  
10 which shall be no more than 21 business days from the date the  
11 requestor is so advised. If the record is not made available by that  
12 time, access shall be deemed denied.

13 A public agency shall not be considered to be in possession of a  
14 public record that is created or maintained by another public agency  
15 and made available to the public agency either by remote access to  
16 a computer network or by distribution as a courtesy copy. A  
17 records custodian of a public agency that receives a request for such  
18 a record, shall not be obligated to provide the record to the  
19 requestor and shall direct the requestor within seven business days  
20 to the public agency that, to the best of their knowledge, created or  
21 maintains the requested record, at which time the request shall be  
22 considered completed.

23 The custodian shall not be required to complete an identical  
24 request for access to a government record from the same requestor  
25 if the information has not changed.

26 A requestor shall have 14 business days to retrieve the  
27 government records following notice from the custodian that the  
28 request has been completed and the records are available.

29 (2) During a period declared pursuant to the laws of this State as  
30 a state of emergency, public health emergency, or state of local  
31 disaster emergency, the deadlines by which to respond to a request  
32 for, or grant or deny access to, a government record under  
33 paragraph (1) of this subsection or subsection e. of this section shall  
34 not apply, provided, however, that the custodian of a government  
35 record shall make a reasonable effort, as the circumstances permit,  
36 to respond to a request for access to a government record within  
37 seven business days or 14 business days, as appropriate, or as soon  
38 as possible thereafter.

39 j. A custodian shall **[post prominently in public view in the**  
40 **part or parts of the office or offices of the custodian that are open to**  
41 **or frequented by the public a statement that sets forth in clear,**  
42 **concise and specific terms the]** include information on the public  
43 agency's website and public records request form regarding a  
44 requestor's right to appeal a denial of, or failure to provide, access  
45 to a government record [by any person for inspection, examination,  
46 or copying or for purchase of copies thereof] and the procedure by  
47 which an appeal may be filed, which shall include the website

1 address and toll-free information line phone number of the  
2 Government Records Council.

3 k. The files maintained by the Office of the Public Defender  
4 that relate to the handling of any case shall be considered  
5 confidential and shall not be open to inspection by any person  
6 unless authorized by law, court order, or the State Public Defender.  
7 (cf: P.L.2023, c.113, s.2)

8  
9 4. Section 7 of P.L.2001, c.404 (C.47:1A-6) is amended to read  
10 as follows:

11 7. A person who is denied access to a government record by  
12 the custodian of the record, at the option of the requestor who is  
13 accurately identified by name, may, within 45 days of the date of  
14 denial:

15 institute a proceeding to challenge the custodian's decision by  
16 filing an action in Superior Court which shall be heard in the  
17 vicinage where it is filed by a Superior Court Judge who has been  
18 designated to hear such cases because of that judge's knowledge  
19 and expertise in matters relating to access to government records; or  
20 in lieu of filing an action in Superior Court, file a complaint with  
21 the Government Records Council established pursuant to section 8  
22 of P.L.2001, c.404 (C.47:1A-7).

23 The right to institute any proceeding under this section shall be  
24 solely that of the requestor. Any such proceeding shall proceed in a  
25 summary or expedited manner. The public agency shall have the  
26 burden of proving that the denial of access is authorized by law. If  
27 it is determined that access has been improperly denied, the court or  
28 **[agency head]** Government Records Council shall order that access  
29 be allowed. A requestor who prevails in any proceeding **[shall]**  
30 may be entitled to a reasonable attorney's fee. In determining  
31 whether to award attorney's fees, the court or the Government  
32 Records Council may consider whether the public agency is found  
33 to have knowingly and willfully violated P.L.1963, c.73 (C.47:1A-1  
34 et seq.), or to have unreasonably denied access.

35 If the records sought are produced by the public agency within  
36 seven business days of service of an action in Superior Court or a  
37 complaint before the Government Records Council, the matter shall  
38 be dismissed without prejudice and the requestor may be entitled to  
39 a reasonable attorney's fee if the custodian knew or should have  
40 known that the denial of access violated P.L.1963, c.73 (C.47:1A-1  
41 et seq.).

42 (cf: P.L.2001, c.404, s.7)

43

44 5. Section 8 of P.L.2001, c.404 (C.47:1A-7) is amended to read  
45 as follows:

46 8. a. (1) There is established in the Department of Community  
47 Affairs a Government Records Council. The council shall consist  
48 of the Commissioner of Community Affairs or the commissioner's

1 designee, [the Commissioner of Education or the commissioner's  
2 designee, and three public members appointed by the Governor,  
3 with the advice and consent of the Senate, not more than two of  
4 whom shall be of the same political party. The three public  
5 members shall serve during the term of the Governor making the  
6 appointment and until the appointment of a successor] who shall  
7 serve as Chair, and eight public members appointed as follows: four  
8 appointed by the Governor with the advice and consent of the  
9 Senate; two directly appointed by the Governor from persons  
10 recommended by the President of the Senate; and two directly  
11 appointed by the Governor from persons recommended by the  
12 Speaker of the General Assembly. Each public member shall serve  
13 for a term of five years and until a successor is appointed and  
14 qualified.

15 (2) Notwithstanding any provision of subsection a. (1) of this  
16 section, or any other law, rule, or regulation to the contrary, within  
17 90 days following the enactment date of P.L. , c. (pending  
18 before the Legislature as this bill), the Governor shall directly  
19 appoint eight public members to the council, each of whom shall  
20 serve for a term of three years and until a successor is appointed  
21 and qualified, as follows: two from persons recommended by the  
22 President of the Senate, two from persons recommended by the  
23 Speaker of the General Assembly, and four appointed at the sole  
24 discretion of the Governor. The terms of office of the members of  
25 the council serving on the date of enactment of P.L. , c (pending  
26 before the Legislature as this bill), shall expire upon the Governor's  
27 direct appointment of the new members pursuant to this subsection.

28 (3) A public member shall not hold any other State or local  
29 elected [or appointed] office [or employment] while serving as a  
30 member of the council. A public member shall [not receive a  
31 salary for service on the council but shall be reimbursed for  
32 reasonable and necessary expenses associated with serving on the  
33 council and may receive such per diem payment as may be provided  
34 in the annual appropriations act] receive a salary equivalent to that  
35 provided by law for a public member of the Local Finance Board of  
36 the Division of Local Government Services in the Department of  
37 Community Affairs. A member may be removed by the Governor  
38 for cause. Vacancies among the public members shall be filled [in  
39 the same manner in which the original appointment was made. The  
40 members of the council shall choose one of the public members to  
41 serve as the council's chair.] by appointment by the Governor,  
42 according to the provisions of subsection a. of this section, and for  
43 the remainder of the unexpired term. The council may employ an  
44 executive director and such professional and clerical staff as it  
45 deems necessary and may call upon the Department of Community  
46 Affairs for such assistance as it deems necessary and may be  
47 available to it.

- 1       b. The Government Records Council shall:  
2       establish an informal mediation program to facilitate the  
3       resolution of disputes regarding access to government records;  
4       receive, hear, review and adjudicate a complaint filed by any  
5       person concerning a denial of access to a government record by a  
6       records custodian;  
7       issue advisory opinions, on its own initiative, as to whether a  
8       particular type of record is a government record which is accessible  
9       to the public;  
10      prepare guidelines and an informational pamphlet for use by  
11      records custodians in complying with the law governing access to  
12      public records;  
13      prepare an informational pamphlet explaining the public's right  
14      of access to government records and the methods for resolving  
15      disputes regarding access, which records custodians shall make  
16      available to persons requesting access to a government record;  
17      prepare lists for use by records custodians of the types of records  
18      in the possession of public agencies which are government records;  
19      make training opportunities available for records custodians and  
20      other public officers and employees which explain the law  
21      governing access to public records; and  
22      operate an informational website and a toll-free helpline staffed  
23      by knowledgeable employees of the council during regular business  
24      hours which shall enable any person, including records custodians,  
25      to call for information regarding the law governing access to public  
26      records and allow any person to request mediation or to file a  
27      complaint with the council when access has been denied【;】.  
28      In implementing the provisions of 【subsections d. and e. of】 this  
29      section, the council shall: act, to the maximum extent possible, at  
30      the convenience of the parties; utilize video conferencing,  
31      teleconferencing, faxing of documents, e-mail and similar forms of  
32      modern communication; conduct virtual meetings and hearings,  
33      when practical and at the discretion of the council; and when in-  
34      person meetings are necessary, send representatives to meet with  
35      the parties at a location convenient to the parties.  
36      The council shall periodically review the information and format  
37      of its website and make such adjustments as shall be deemed  
38      necessary to ensure that the information is clearly presented,  
39      accessible, and useful for the general public. The council shall  
40      conduct such an initial review within six months following the  
41      effective date of P.L. , c. (pending before the Legislature as this  
42      bill).  
43      c. At the request of the council, a public agency shall produce  
44      documents and ensure the attendance of witnesses with respect to  
45      the council's investigation of any complaint or the holding of any  
46      hearing.  
47      d. Upon receipt of a written complaint signed by any person  
48      alleging that a custodian of a government record has improperly

1 denied that person access to a government record, the council shall  
2 offer the parties the opportunity to resolve the dispute through  
3 mediation. Mediation shall enable a person who has been denied  
4 access to a government record and the public agency that employs  
5 the records custodian who denied or failed to provide access thereto  
6 to attempt to mediate the dispute through a process whereby a  
7 neutral mediator, who shall be trained in mediation selected by the  
8 council, acts to encourage and facilitate the resolution of the  
9 dispute. Mediation shall be an informal, nonadversarial process  
10 having the objective of helping the parties reach a mutually  
11 acceptable, voluntary agreement. The mediator shall assist the  
12 parties in identifying issues, foster joint problem solving, and  
13 explore settlement alternatives.

14 e. If any party declines mediation or if mediation fails to  
15 resolve the matter to the satisfaction of all parties, the council shall  
16 initiate an investigation concerning the facts and circumstances set  
17 forth in the complaint. The council shall make a determination as  
18 to whether the complaint is within its jurisdiction or frivolous or  
19 without any reasonable factual basis. The council may assign staff  
20 attorneys to conduct the investigation, present findings, and make  
21 recommendations to the council. If the council shall conclude that  
22 the complaint is outside its jurisdiction, frivolous, or without factual  
23 basis, it shall reduce that conclusion to writing and transmit a copy  
24 thereof to the complainant and to the public agency that employs  
25 the records custodian against whom the complaint was filed.  
26 Otherwise, the council shall notify the public agency that employs  
27 the records custodian against whom the complaint was filed of the  
28 nature of the complaint and the facts and circumstances set forth  
29 therein. The public agency that employs the records custodian shall  
30 have the opportunity to present the board with any statement or  
31 information concerning the complaint which the **【custodian】**  
32 agency wishes. If the council is able to make a determination as to  
33 a record's accessibility based upon the complaint and the  
34 **【custodian's】** agency's response thereto, it shall reduce that  
35 conclusion to writing and transmit a copy thereof to the  
36 complainant and to the public agency that employs the records  
37 custodian against whom the complaint was filed. If the council is  
38 unable to make a determination as to a record's accessibility based  
39 upon the complaint and the **【custodian's】** agency's response thereto,  
40 the council shall conduct a hearing on the matter in conformity with  
41 the rules and regulations provided for hearings by a State agency in  
42 contested cases under the "Administrative Procedure Act,"  
43 P.L.1968, c.410 (C.52:14B-1 et seq.), insofar as they may be  
44 applicable and practicable. The council shall, by a majority vote of  
45 its members, render a decision as to whether the record which is the  
46 subject of the complaint is a government record which must be  
47 made available for public access pursuant to P.L.1963, c.73  
48 (C.47:1A-1 et seq.) as amended and supplemented. If the council

1 determines, by a majority vote of its members, that a custodian  
2 **【has】** is found to have knowingly and willfully violated P.L.1963,  
3 c.73 (C.47:1A-1 et seq.), as amended and supplemented, and 【is  
4 found】 to have unreasonably denied access under the totality of the  
5 circumstances, the council may impose the penalties provided for in  
6 section 12 of P.L.2001, c.404 (C.47:1A-11) on the public agency  
7 that employs the custodian. A decision of the council may be  
8 appealed to the Appellate Division of the Superior Court. Such  
9 appeals shall be filed within 30 days from the date the council  
10 renders a decision. A decision of the council shall not have value as  
11 a precedent for any case initiated in Superior Court pursuant to  
12 section 7 of P.L.2001, c.404 (C.47:1A-6). All proceedings of the  
13 council pursuant to this subsection shall be conducted as  
14 expeditiously as possible.

15 Beginning 18 months following the effective date of P.L. , c.  
16 (pending before the Legislature as this bill), the council shall  
17 adjudicate all complaints that come before it within 90 days of the  
18 complaint's filing, with the ability to extend for 30 days for good  
19 cause, exclusive of any time period during which the parties are  
20 engaged in a mediation process pursuant to this section. The  
21 council shall make such organizational adjustments and modify its  
22 procedures as it deems necessary to ensure that complaints are  
23 adjudicated in such a timeframe.

24 f. The council shall not charge any party a fee in regard to  
25 actions filed with the council. The council shall be subject to the  
26 provisions of the "Open Public Meetings Act," P.L.1975, c.231  
27 (C.10:4-6), except that the council may go into closed session  
28 during that portion of any proceeding during which the contents of a  
29 contested record would be disclosed. **【A requestor who prevails in**  
30 **any proceeding shall be entitled to a reasonable attorney's fee.】**

31 g. The council shall not have jurisdiction over the Judicial or  
32 Legislative Branches of State Government or any agency, officer, or  
33 employee of those branches.  
34 (cf: P.L.2001, c.404, s.8)

35  
36 6. Section 12 of P.L.2001, c.404 (C.47:1A-11) is amended to  
37 read as follows:

38 12. a. **【A】** If a public official, officer, employee, or custodian  
39 【who】 is found to have knowingly and willfully 【violates】 violated  
40 P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented,  
41 and 【is found】 to have unreasonably denied access under the  
42 totality of the circumstances, the public agency that employs the  
43 custodian, officer, employee, or official shall be subject to a civil  
44 penalty of \$1,000 for an initial violation, \$2,500 for a second  
45 violation that occurs within 10 years of an initial violation, and  
46 \$5,000 for a third violation that occurs within 10 years of an initial  
47 violation. 【This penalty】 The penalties authorized pursuant to this

1 subsection may be imposed by the courts or by the Government  
2 Records Council.

3 b. A requestor who is found to have sold the data obtained by a  
4 records request, who is found to have intentionally failed to certify  
5 that a records request is for a commercial purpose, who is a data  
6 broker, or who is making the request on behalf of and for the use of  
7 a data broker, and is found to have intentionally certified that the  
8 requestor is not a data broker or is not making the request on behalf  
9 of and for the use of a data broker, shall be subject to a civil penalty  
10 of \$1,000 for the first offense, \$2,500 for the second offense, and  
11 \$5,000 for each subsequent offense. The penalties may be imposed  
12 by the courts.

13 c. These penalties shall be collected and enforced in  
14 proceedings in accordance with the "Penalty Enforcement Law of  
15 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court  
16 governing actions for the collection of civil penalties. The Superior  
17 Court shall have jurisdiction of proceedings for the collection and  
18 enforcement of the penalty imposed by this section.

19 d. Appropriate disciplinary proceedings may be initiated  
20 against a public official, officer, employee or custodian against  
21 whom a penalty has been imposed.

22 (cf: P.L.2001, c.404, s.12)

23

24 7. Section 2 of P.L.2021, c.371 (C.47:1B-2) is amended to read  
25 as follows:

26 2. a. An authorized person seeking the redaction or  
27 nondisclosure of the home address of any covered person from  
28 certain records and Internet postings consistent with section 2 of  
29 P.L.2015, c.226 (C.47:1-17), section 1 of P.L.1995, c.23 (C.47:1A-  
30 1.1), or section 6 of P.L.2001, c.404 (C.47:1A-5) shall submit a  
31 request in accordance with section 1 of P.L.2021, c.371 (C.47:1B-1)  
32 to the Office of Information Privacy through the secure portal  
33 established by the office. The address shall only be subject to  
34 redaction or nondisclosure if a request is submitted to and approved  
35 by the Director of the Office of Information Privacy.

36 b. (1) A public agency shall redact or cease to disclose, in  
37 accordance with section 6 of P.L.2001, c.404 (C.47:1A-5) and  
38 section 1 of P.L.1995, c.23 (C.47:1A-1.1), respectively, the home  
39 address of a covered person approved by the Office of Information  
40 Privacy not later than 30 days following the approval. A public  
41 agency shall also discontinue the redaction or nondisclosure of the  
42 home address of any covered person for whom a revocation request  
43 has been approved not later than 30 days following the approval.

44 (2) A custodian of a public agency who makes a reasonable  
45 effort to comply with this subsection shall be presumed to have  
46 acted without willful, purposeful, or reckless disregard of the law.

47 c. An immediate family member who has sought and received  
48 approval under subsection a. of this section and who no longer

1 resides with the active, formerly active, or retired judicial officer,  
2 law enforcement officer, child protective investigator in the  
3 Division of Child Protection and Permanency, or prosecutor shall  
4 submit through the portal a revocation request not later than 30 days  
5 from the date on which the immediate family member no longer  
6 resided with the judicial officer, law enforcement officer, child  
7 protective investigator in the Division of Child Protection and  
8 Permanency, or prosecutor.

9 d. A person submitting a request pursuant to subsection a. of  
10 this section shall affirm in writing that the person understands that  
11 certain rights, duties, and obligations are affected as a result of the  
12 request, including:

13 (1) the receipt of certain notices from non-governmental entities  
14 as would otherwise be required pursuant to the "Municipal Land  
15 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.);

16 (2) the signing of petitions related to the nomination or election  
17 of a candidate to public office or related to any public question;

18 (3) the eligibility or requirements related to seeking or accepting  
19 the nomination for election or election to public office, or the  
20 appointment to any public position;

21 (4) the sale or purchase of a home or other property, recordation  
22 of a judgment, lien or other encumbrance on real or other property,  
23 and any relief granted based thereon;

24 (5) the ability to be notified of any class action suit or  
25 settlement; and

26 (6) any other legal, promotional, or official notice which would  
27 otherwise be provided to the person but for the redaction or  
28 nondisclosure of such person's home address pursuant to subsection  
29 a. of this section.

30 (cf: P.L.2023, c.113, s.4)

31

32 8. (New section) a. Notwithstanding any other law or rule or  
33 regulation to the contrary, whenever there is filed a verified  
34 complaint to the Superior Court of the county in which the request  
35 for access to government records was made under P.L.1963, c.73  
36 (C.47:1A-1 et seq.) alleging that a requestor has sought records  
37 thereunder for the purpose to harass a public agency, or to  
38 substantially interrupt government function, the court may issue a  
39 protective order limiting the number and scope of requests the  
40 requestor may make or order such other relief as it deems  
41 appropriate, including referral of the matter to mediation. The court  
42 may issue the protective order if it finds that the requestor has  
43 sought records under P.L.1963, c.73 (C.47:1A-1 et seq.) for the  
44 purpose of harassing the public agency, or to substantially interrupt  
45 government function, as the term harass is defined in N.J.S.2C:33-  
46 4. The complaint shall be accompanied by a declaration of facts by  
47 the public agency withholding the records demonstrating that it has  
48 complied with P.L.1963, c.73 (C.47:1A-1 et seq.) and has made a

1 good faith effort to reach an informal resolution of the issues  
2 relating to the records requests.

3 The requestor shall have notice and an opportunity to answer the  
4 allegations set forth in the petition submitted by the public agency.

5 The public agency shall have the burden of proof by clear and  
6 convincing evidence.

7 The court's consideration of a public agency's complaint for  
8 relief shall proceed in a summary or expedited manner.

9 b. The order specified in subsection a. of this section may limit,  
10 or, in appropriate circumstances, eliminate the public agency's duty  
11 to respond to government records requests from the requestor in the  
12 future.

13

14 9. (New section) a. A data broker business entity conducting  
15 business in this State shall register with the Division of Revenue  
16 and Enterprise Services in the Department of the Treasury. The  
17 division shall impose an annual fee of \$250 for each registration.  
18 The fee shall be deposited into the fund created pursuant to  
19 subsection c. of this section. For the purpose of this section, "data  
20 broker" shall have the same meaning as in section 1 of P.L.1995,  
21 c.23 (C.47:1A-1.1).

22 b. The Department of the Treasury may issue rules and  
23 regulations necessary to effectuate the purpose of this section. The  
24 rules and regulations shall be effective immediately upon filing  
25 with the Office of Administrative Law for a period not to exceed  
26 one year and may, thereafter, be amended, adopted, or readopted in  
27 accordance with the "Administrative Procedure Act," P.L.1968,  
28 c.410 (C.52:14B-1 et seq.).

29 c. There shall be created in the Department of the Treasury a  
30 dedicated, non-lapsing fund for providing grants to political  
31 subdivisions of the State for the purpose of providing access to  
32 government records electronically, including through the use of  
33 shared services agreements. The fund shall be administered by the  
34 State Treasurer. Monies in the fund shall be appropriated annually  
35 solely for this purpose.

36

37 10. (New section) The Attorney General shall establish a Police  
38 Record Access Improvement Task Force to investigate the existing  
39 statutes governing public access to police records and develop  
40 recommendations for necessary changes to the law.

41 The members of the Police Record Access Improvement Task  
42 Force shall be comprised of 12 members. The membership of the  
43 task force shall be as follows:

44 The Attorney General, or the Attorney's General designee, who  
45 shall serve ex officio, as Chair;

46 Seven public members, appointed by the Governor, one who is a  
47 member of law enforcement, one who is a county or municipal  
48 prosecutor, one who is a criminal defense attorney or public

1 defender, one who is a member of a social justice advocacy  
2 organization, one who is a member of the New Jersey Press  
3 Association, one who is a member of the New Jersey League of  
4 Municipalities, and one who is a member of the New Jersey  
5 Association of Counties;

6 Two public members, appointed by the Governor upon the  
7 recommendation of the President of the Senate; and

8 Two public members, appointed by the Governor upon the  
9 recommendation of the Speaker of the General Assembly.

10 The task force shall submit to the Governor and to the  
11 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
12 19.1), recommendations for changes to the law.

13 The Department of Law and Public Safety shall provide  
14 stenographic, clerical, and other administrative assistance and  
15 professional staff as the task force requires to carry out its work.  
16 The task force shall be entitled to call to its assistance and avail  
17 itself of the services of the employees of any State, county, or  
18 municipal department, board, bureau, commission, or agency as it  
19 may require and as may be available for its purposes.

20 The public members of the task force shall serve without  
21 compensation, but may be reimbursed for necessary and actual  
22 expenses incurred in the performance of their duties to the extent  
23 that funds are made available for that purpose.

24

25 11. (New section) a. The provisions of this section shall apply  
26 only to the New Jersey Division of Elections, the New Jersey  
27 Election Law Enforcement Commission, County Boards of  
28 Elections, County Superintendents of Elections, County Clerks,  
29 Municipal Clerks, Fire District Board Clerks, School District  
30 Business Administrators, and School District Board Secretaries,  
31 hereafter referred to as an “election agency” or “election agencies.”  
32 Except as otherwise provided for in this section, all provisions of  
33 this act, P.L. , c. (pending before the Legislature as this bill),  
34 shall apply to all election agencies. Nothing herein shall be  
35 construed to mean that an election agency is required to provide a  
36 record in response to a request for records, unless it has made or  
37 received and maintains said requested record pursuant to law or  
38 regulation.

39 b. Notwithstanding any other law, rule, or regulation to the  
40 contrary, except as otherwise provided in sections 2 and 3 of  
41 P.L.2021, c.371 (C.47:1B-1 et seq.), subsection b. of section 1 of  
42 P.L.1994, c.148 (C.19:31-3.2), or in any rules or regulations  
43 promulgated by the Secretary of State pursuant to subsection f. of  
44 this section, the following shall be records for which the provided  
45 information shall not be redacted by an election agency except for  
46 voter signatures, Social Security numbers, driver license numbers,  
47 and non-driver identification numbers:

- 1 (1) Voter registration forms and forms changing the provided  
2 information thereof;
  - 3 (2) Party affiliation forms and forms changing the provided  
4 information thereof;
  - 5 (3) Applications for a vote-by-mail ballot, except as otherwise  
6 provided in sections 3 and 13 of P.L.2020, c.70 (C.19:63-1 et seq.);
  - 7 (4) Forms or reports submitted to the Election Law Enforcement  
8 Commission;
  - 9 (5) Nominating petitions for any candidate for any elected  
10 office, which shall be provided in a manner that includes voter  
11 signatures on such petitions;
  - 12 (6) Petitions to recall an elected official, which shall be  
13 provided in a manner that includes voter signatures on such  
14 petitions;
  - 15 (7) Petitions or submissions for any public question or referenda  
16 to be considered by voters, which shall be provided in a manner that  
17 includes voter signatures on such petitions;
  - 18 (8) Any submissions, responses, objections, or challenges  
19 pertaining to a record referred to in this subsection; and
  - 20 (9) Any addendums, amendments, corrections, withdrawals, or  
21 accompanying forms or submissions pertaining to a record referred  
22 to in this subsection.
- 23 c. Notwithstanding any other law, rule, or regulation to the  
24 contrary, the following shall be records and information that an  
25 election agency shall make available to requestors for immediate  
26 access and transmission via email as soon as possible, but not later  
27 than two business days after receipt of the request, provided the  
28 request is not for a commercial purpose, for which a fee shall not be  
29 charged nor collected:
- 30 (1) Nominating petitions for any candidate for any elected office  
31 filed with the election agency within the preceding 90 days of the  
32 date the request is received;
  - 33 (2) Petitions to recall an elected official filed with the election  
34 agency within the preceding 90 days of the date the request is  
35 received;
  - 36 (3) Petitions or submissions for any public question or referenda  
37 to be considered by voters filed with the election agency within the  
38 preceding 90 days of the date the request is received;
  - 39 (4) Any submissions, responses, objections, or challenges filed  
40 with the election agency within the preceding 90 days pertaining to  
41 a record referred to in this subsection;
  - 42 (5) Any addendums, amendments, corrections, withdrawals, or  
43 accompanying forms or submissions filed with the election agency  
44 within the preceding 90 days pertaining to a record referred to in  
45 this subsection; and
  - 46 (6) The inspection and transmission deadline requirements of  
47 this subsection shall be deemed satisfied if an election agency posts

1 on its website the records and information referred to in this  
2 subsection.

3 d. Notwithstanding any other law, rule, or regulation to the  
4 contrary, the following in paragraphs (1) through (4) of this  
5 subsection shall be records and information that an election agency  
6 shall make available to requestors for immediate access and  
7 transmission via email as soon as possible, provided the request  
8 pertains only to an election to be held within 16 days after the date  
9 of the request and is not for a commercial purpose. The  
10 transmission shall be not later than two business days after receipt  
11 of the request when said request is made between one and 15 days  
12 before the date of the election pertaining to the request. For any  
13 request submitted the day before an election by noon, the request  
14 shall be completed by noon the day of the election. A fee shall not  
15 be charged nor collected. This subsection shall apply to:

16 (1) Lists, in a format capable of being sorted by the requestor, of  
17 registered voters, including their name, address, party affiliation,  
18 and municipal voting ward and district, who have requested, been  
19 mailed, or returned a vote-by-mail ballot, including the dates the  
20 ballot was requested by the voter, mailed to the voter, and received  
21 by the appropriate election agency;

22 (2) Lists, in a format capable of being sorted by the requestor, of  
23 registered voters, including their name, address, party affiliation,  
24 and municipal voting ward and district, who have cast a vote during  
25 the early voting period, including the date and polling location the  
26 vote was cast;

27 (3) The inspection and transmission deadline requirements of this  
28 subsection shall be deemed satisfied if an election agency posts on  
29 its website the records and information referred to in this  
30 subsection; and

31 (4) Whenever the requirements of this subsection would cause a  
32 voter's privacy to be violated, the information shall be provided in a  
33 manner that maintains the privacy of the voter.

34 e. The following records or information shall not be subject to  
35 disclosure pursuant to a request for public records:

36 (1) Ballots marked by a voter, vote tabulations, or election  
37 results for any election prior to the time of the closing of the polls  
38 on the date of the election, except as otherwise provided for by law,  
39 rule, or regulation; and

40 (2) Manuals instructions, specifications, technical information,  
41 or programming code of computers, software, applications,  
42 networks, tablets, voting machines, printers, scanners, and any other  
43 equipment, systems, policies or plans used for the conduct of  
44 elections, the disclosure of which, could have the potential to  
45 jeopardize the security, integrity or accuracy of the conduct of  
46 elections, tabulation of votes, or determination of election results,  
47 except as otherwise provided for by law, rule, or regulation, or in

1 response to a subpoena or order of a court or tribunal of competent  
2 jurisdiction.

3 f. The Secretary of State may adopt regulations necessary to  
4 effectuate the purposes of this act, which regulations shall be  
5 effective immediately upon filing with the Office of Administrative  
6 Law for a period not to exceed 18 months, and may, thereafter, be  
7 amended, adopted or readopted in accordance with the provisions of  
8 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
9 seq.).

10

11 12. (New section) a. The provisions of section 1 of P.L.1963,  
12 c.73 (C.47:1A-1), section 1 of P.L.1995, c.23 (C.47:1A-1.1),  
13 sections 6, 7, and 8 of P.L.2001, c.404 (C.47:1A-5 through 47:1A-  
14 7), and section 2 of P.L.2021, c.371 (C.47:1B-2), as amended by  
15 sections 1 through 5 and section 7 of P.L. , c. (pending before  
16 the Legislature as this bill), shall apply retroactively to all  
17 complaints and appeals pending before the Government Records  
18 Council, the Superior Court or the Supreme Court of New Jersey  
19 filed prior to the effective date of P.L. , c. (pending before the  
20 Legislature as this bill), provided, however, that nothing in this  
21 section shall be construed as to retroactively reduce the statute of  
22 limitations governing any complaint or appeal pending before the  
23 Government Records Council, the Superior Court or the Supreme  
24 Court of New Jersey.

25 b. All complaints and appeals pending before the Government  
26 Records Council or the Superior Court filed prior to the effective  
27 date of P.L. , c. (pending before the Legislature as this bill),  
28 either anonymously or using a fictitious name or identity, may be  
29 dismissed with prejudice upon a motion by the public agency,  
30 unless the complainant files an amendment to their complaint that  
31 accurately identifies their name and mailing address within 90 days  
32 of the effective date of P.L. , c. (pending before the Legislature  
33 as this bill).

34 c. The parties to any complaint or appeal pending before the  
35 Government Records Council, the Superior Court or the Supreme  
36 Court of New Jersey filed prior to the effective date of P.L. , c.  
37 (pending before the Legislature as this bill), shall be permitted to  
38 file an amendment to their respective complaints and answers  
39 within 90 days of the effective date of P.L. , c. (pending before  
40 the Legislature as this bill).

41

42 13. a. There is hereby appropriated \$4,000,000 from the State  
43 General Fund to the Department of Community Affairs to provide  
44 grants to political subdivisions of the State for the purpose of  
45 making government records that are accessible under P.L.1963, c.73  
46 (C.47:1A-1 et seq.) available electronically, including through the  
47 use of shared services agreements.



[First Reprint]

**SENATE, No. 2930**

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**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

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INTRODUCED MARCH 4, 2024

**Sponsored by:**

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**Senator ANTHONY M. BUCCO**

**District 25 (Morris and Passaic)**

**SYNOPSIS**

Makes various changes to process for access to government records; appropriates \$8 million.

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on March 11, 2024, with amendments.



**(Sponsorship Updated As Of: 4/8/2024)**

1 AN ACT concerning access to government records, amending and  
2 supplementing various parts of the statutory law, and making an  
3 appropriation.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. Section 1 of P.L.1963, c.73 (C.47:1A-1) is amended to read  
9 as follows:

10 1. The Legislature finds and declares it to be the public policy  
11 of this State that:

12 government records shall be readily accessible for inspection,  
13 copying, or examination by the citizens of this State, with certain  
14 exceptions, for the protection of the public interest, and any  
15 limitations on the right of access accorded by P.L.1963, c.73  
16 (C.47:1A-1 et seq.) as amended and supplemented, shall be  
17 construed in favor of the public's right of access;

18 all government records shall be subject to public access unless  
19 exempt from such access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as  
20 amended and supplemented; any other statute; resolution of either  
21 or both houses of the Legislature; regulation promulgated under the  
22 authority of any statute or Executive Order of the Governor;  
23 Executive Order of the Governor; Rules of Court; any federal law,  
24 federal regulation, or federal order;

25 a public agency has a responsibility and an obligation to  
26 safeguard from public access a citizen's personal information with  
27 which it has been entrusted, or information that might reasonably  
28 lead to disclosure of a person's personal information, when  
29 disclosure thereof would violate the citizen's reasonable expectation  
30 of privacy, or when the public agency has reason to believe that  
31 disclosure of such personal information may result in harassment,  
32 unwanted solicitation, identity theft, or opportunities for other  
33 criminal acts; and

34 nothing contained in P.L.1963, c.73 (C.47:1A-1 et seq.), as  
35 amended and supplemented, shall be construed as affecting in any  
36 way the common law right of access to any record, including but  
37 not limited to criminal investigatory records of a law enforcement  
38 agency.

39 (cf: P.L.2001, c.404, s.1)

40

41 2. Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended to  
42 read as follows:

43 1. As used in P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and  
44 supplemented:

45 "Biotechnology" means any technique that uses living  
46 organisms, or parts of living organisms, to make or modify

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SBA committee amendments adopted March 11, 2024.

1 products, to improve plants or animals, or to develop micro-  
2 organisms for specific uses; including the industrial use of  
3 recombinant DNA, cell fusion, and novel bioprocessing techniques.

4 "Child protective investigator in the Division of Child Protection  
5 and Permanency" means an employee of the Division of Child  
6 Protection and Permanency in the Department of Children and  
7 Families whose primary duty is to investigate reports of child abuse  
8 and neglect, or any other employee of the Department of Children  
9 and Families whose duties include investigation, response to, or  
10 review of allegations of child abuse and neglect.

11 "Commercial purpose" means the direct or indirect use of any  
12 part of a government record for sale, resale, solicitation, rent or  
13 lease of a service, or any use by which the user expects a profit  
14 either through commission, salary, or fee. "Commercial purpose"  
15 shall not include using, distributing, gathering, procuring,  
16 transmitting, compiling, editing, disseminating, or publishing of  
17 information or data by the news media, or any parent company,  
18 subsidiary, or affiliate of any news media, as defined by section 2 of  
19 P.L.1977, c.253 (C.2A:84A-21a), or by any news, journalistic,  
20 educational, scientific, scholarly, or governmental organization, or  
21 by any person authorized to act on behalf of a candidate committee,  
22 joint candidate committee, political committee, continuing political  
23 committee, political party committee, or legislative leadership  
24 committee, as defined by section 3 of P.L.1973, c.83 (C.19:44A-3),  
25 registered with the New Jersey Election Law Enforcement  
26 Commission.

27 "Constituent" means any State resident or other person  
28 communicating with a member of the Legislature.

29 "Criminal investigatory record" means a record which is not  
30 required by law to be made, maintained or kept on file that is held  
31 by a law enforcement agency which pertains to any criminal  
32 investigation or related civil enforcement proceeding.

33 "Custodian of a government record" or "custodian" means in the  
34 case of a municipality, the municipal clerk and in the case of any  
35 other public agency, the officer officially designated by formal  
36 action of that agency's director or governing body, as the case may  
37 be.

38 "Data broker" means a business that knowingly collects and sells  
39 to third parties the personal information of a consumer with whom  
40 the business does not have a direct relationship.

41 "Government record" or "record" means any paper, written or  
42 printed book, document, drawing, map, plan, photograph,  
43 microfilm, data processed or image processed document,  
44 information stored or maintained electronically or by sound-  
45 recording or in a similar device, or any copy thereof, that has been  
46 made, maintained or kept on file in the course of his or its official  
47 business by any officer, commission, agency or authority of the  
48 State or of any political subdivision thereof, including subordinate  
49 boards thereof, or that has been received in the course of his or its

1 official business by any such officer, commission, agency, or  
2 authority of the State or of any political subdivision thereof,  
3 including subordinate boards thereof. The terms shall not include  
4 inter-agency or intra-agency advisory, consultative, **[or]**  
5 deliberative, or draft material, including notes generated and used to  
6 prepare final reports, documents, or records.

7 A government record shall not include the following information  
8 which is deemed to be confidential for the purposes of P.L.1963,  
9 c.73 (C.47:1A-1 et seq.) as amended and supplemented:

10 information received by a member of the Legislature from a  
11 constituent or information held by a member of the Legislature  
12 concerning a constituent, including, but not limited to, information  
13 in written form or contained in any e-mail or computer data base, or  
14 in any telephone record whatsoever, unless it is information the  
15 constituent is required by law to transmit;

16 any memorandum, correspondence, notes, report or other  
17 communication prepared by, or for, the specific use of a member of  
18 the Legislature in the course of the member's official duties, except  
19 that this provision shall not apply to an otherwise publicly-  
20 accessible report which is required by law to be submitted to the  
21 Legislature or its members;

22 any copy, reproduction or facsimile of any photograph, negative  
23 or print, including instant photographs and videotapes of the body,  
24 or any portion of the body, of a deceased person, taken by or for the  
25 medical examiner at the scene of death or in the course of a post  
26 mortem examination or autopsy made by or caused to be made by  
27 the medical examiner except:

28 when used in a criminal action or proceeding in this State which  
29 relates to the death of that person,

30 for the use as a court of this State permits, by order after good  
31 cause has been shown and after written notification of the request  
32 for the court order has been served at least five days before the  
33 order is made upon the county prosecutor for the county in which  
34 the post mortem examination or autopsy occurred,

35 for use in the field of forensic pathology or for use in medical or  
36 scientific education or research, or

37 for use by any law enforcement agency in this State or any other  
38 state or federal law enforcement agency;

39 criminal investigatory records;

40 the portion of any criminal record concerning a person's  
41 detection, apprehension, arrest, detention, trial or disposition for  
42 unlawful manufacturing, distributing, or dispensing, or possessing  
43 or having under control with intent to manufacture, distribute, or  
44 dispense, marijuana or hashish in violation of paragraph (11) of  
45 subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or  
46 hashish in violation of paragraph (12) of subsection b. of that  
47 section, or a violation of either of those paragraphs and a violation  
48 of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or  
49 subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for

1 distributing, dispensing, or possessing, or having under control with  
2 intent to distribute or dispense, on or within 1,000 feet of any  
3 school property, or on or within 500 feet of the real property  
4 comprising a public housing facility, public park, or public  
5 building, or for obtaining, possessing, using, being under the  
6 influence of, or failing to make lawful disposition of marijuana or  
7 hashish in violation of paragraph (3) or (4) of subsection a., or  
8 subsection b., or subsection c. of N.J.S.2C:35-10, or for a violation  
9 of any of those provisions and a violation of N.J.S.2C:36-2 for  
10 using or possessing with intent to use drug paraphernalia with that  
11 marijuana or hashish;

12 victims' records, except that a victim of a crime shall have access  
13 to the victim's own records;

14 any written request by a crime victim for a record to which the  
15 victim is entitled to access as provided in this section, including,  
16 but not limited to, any law enforcement agency report, domestic  
17 violence offense report, and temporary or permanent restraining  
18 order;

19 personal firearms records, except for use by any person  
20 authorized by law to have access to these records or for use by any  
21 government agency, including any court or law enforcement  
22 agency, for purposes of the administration of justice;

23 personal identifying information received by the Division of Fish  
24 and Wildlife in the Department of Environmental Protection in  
25 connection with the issuance of any license authorizing hunting  
26 with a firearm<sup>1</sup>. For the purposes of this paragraph, personal  
27 identifying information shall include, but not be limited to, identity,  
28 name, address, social security number, telephone number, fax  
29 number, driver's license number, email address, or social media  
30 address of any applicant or licensee<sup>2</sup>;

31 trade secrets and proprietary commercial or financial information  
32 obtained from any source. For the purposes of this paragraph, trade  
33 secrets shall include <sup>3</sup> **[data processing]** software, applications, and  
34 code obtained by a public body under a licensing agreement which  
35 prohibits its disclosure;

36 any record within the attorney-client privilege. This paragraph  
37 shall not be construed as exempting from access attorney or  
38 consultant bills or invoices except that such bills or invoices may be  
39 redacted to remove any information protected by the attorney-client  
40 privilege;

41 administrative or technical information regarding computer  
42 hardware, tablets, telephones, and devices, or software,  
43 applications, and networks <sup>4</sup> **[which, if disclosed, would jeopardize**  
44 **computer security]** , or related technologies;

45 emergency or security information or procedures for any  
46 buildings or facility which, if disclosed, would jeopardize security  
47 of the building or facility or persons therein;

- 1 security measures and surveillance techniques which, if
- 2 disclosed, would create a risk to the safety of persons, property,
- 3 electronic data or software;
- 4 security alarm system activity and access reports, including
- 5 video footage, for any public building, facility, or grounds unless
- 6 the request identifies a specific incident that occurred, a specific
- 7 date, and a limited time period at a particular public building,
- 8 facility, or grounds;
- 9 information which, if disclosed, would give an advantage to
- 10 competitors or bidders, including detailed or itemized cost estimates
- 11 prior to bid opening;
- 12 information generated by or on behalf of public employers or
- 13 public employees in connection with any sexual harassment
- 14 complaint filed with a public employer or with any grievance filed
- 15 by or against an individual or in connection with collective
- 16 negotiations, including documents and statements of strategy or
- 17 negotiating position;
- 18 information related to strategies or negotiating positions that
- 19 would unfairly prejudice or impair contract negotiations;
- 20 information which is a communication between a public agency
- 21 and its insurance carrier, administrative service organization or risk
- 22 management office;
- 23 information which is to be kept confidential pursuant to court
- 24 order;
- 25 any copy of form DD-214, NGB-22, or that form, issued by the
- 26 United States Government, or any other certificate of honorable
- 27 discharge, or copy thereof, from active service or the reserves of a
- 28 branch of the Armed Forces of the United States, or from service in
- 29 the organized militia of the State, that has been filed by an
- 30 individual with a public agency, except that a veteran or the
- 31 veteran's spouse or surviving spouse shall have access to the
- 32 veteran's own records;
- 33 any copy of an oath of allegiance, oath of office or any
- 34 affirmation taken upon assuming the duties of any public office, or
- 35 that oath or affirmation, taken by a current or former officer or
- 36 employee in any public office or position in this State or in any
- 37 county or municipality of this State, including members of the
- 38 Legislative Branch, Executive Branch, Judicial Branch, and all law
- 39 enforcement entities, except that the full name, title, and oath date
- 40 of that person contained therein shall not be deemed confidential;
- 41 that portion of any document which discloses the social security
- 42 number, credit card number, **[unlisted]** debit card number, bank
- 43 account information, month and day of birth, email address, any
- 44 telephone number, or driver license number of any person, or, in
- 45 accordance with section 2 of P.L.2021, c.371 (C.47:1B-2), that
- 46 portion of any document which discloses the home address, whether
- 47 a primary or secondary residence, of any active, formerly active, or
- 48 retired judicial officer, law enforcement officer, child protective
- 49 investigator in the Division of Child Protection and Permanency, or

1 prosecutor, or, as defined in section 1 of P.L.2021, c.371 (C.47:1B-  
2 1), any immediate family member thereof; except for use by any  
3 government agency, including any court or law enforcement  
4 agency, in carrying out its functions, or any private person or entity  
5 acting on behalf thereof, or any private person or entity seeking to  
6 enforce payment of court-ordered child support; except with respect  
7 to the disclosure of driver information by the New Jersey Motor  
8 Vehicle Commission as permitted by section 2 of P.L.1997, c.188  
9 (C.39:2-3.4); except with respect to the disclosure of information  
10 included in records and documents maintained by the Department of  
11 the Treasury in connection with the State's business registry  
12 programs; and except that a social security number contained in a  
13 record required by law to be made, maintained or kept on file by a  
14 public agency shall be disclosed when access to the document or  
15 disclosure of that information is not otherwise prohibited by State  
16 or federal law, regulation or order or by State statute, resolution of  
17 either or both houses of the Legislature, Executive Order of the  
18 Governor, rule of court or regulation promulgated under the  
19 authority of any statute or executive order of the Governor;

20 that portion of any document that discloses the personal  
21 identifying information of any person provided to a public agency  
22 for the sole purpose of receiving official notifications;

23 a list of persons identifying themselves as being in need of  
24 special assistance in the event of an emergency maintained by a  
25 municipality for public safety purposes pursuant to section 1 of  
26 P.L.2017, c.266 (C.40:48-2.67), and their personal identifying  
27 information; [and]

28 a list of persons identifying themselves as being in need of  
29 special assistance in the event of an emergency maintained by a  
30 county for public safety purposes pursuant to section 6 of P.L.2011,  
31 c.178 (C.App.A:9-43.13), and their personal identifying  
32 information;

33 that portion of any document that requires and would disclose  
34 personal identifying information of persons under the age of 18  
35 years, including names, except with respect to the disclosure of  
36 driver information by the New Jersey Motor Vehicle Commission  
37 as permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4) or the  
38 disclosure of driver information to any insurer or insurance support  
39 organization, or a self-insured entity, or its agents, employees, or  
40 contractors, for use in connection with claims investigation  
41 activities, antifraud activities, rating, or underwriting, and except  
42 with respect to the disclosure of voter information on voter and  
43 election records pursuant to section 11 of P.L. , c. (C.) (pending  
44 before the Legislature as this bill);

45 personal identifying information disclosed on domestic animal  
46 permits, licenses, and registration;

47 structured reference data that helps to sort and identify attributes  
48 of the information it describes, referred to as metadata, or any  
49 extrapolation or compilation thereof;

1 New Jersey State Firemen's Association financial relief  
2 applications;  
3 owner and maintenance manuals;  
4 data classified under the "Health Insurance Portability and  
5 Accountability Act of 1996," Pub.L.104-191;  
6 logs of telephone calls, emails, or texts; and  
7 electronic or paper calendars for individuals.

8 A government record shall not include, with regard to any public  
9 institution of higher education, the following information which is  
10 deemed to be privileged and confidential:

11 pedagogical, scholarly and/or academic research records and/or  
12 the specific details of any research project conducted under the  
13 auspices of a public higher education institution in New Jersey,  
14 including, but not limited to, research, development information,  
15 testing procedures, or information regarding test participants,  
16 related to the development or testing of any pharmaceutical or  
17 pharmaceutical delivery system, except that a custodian may not  
18 deny inspection of a government record or part thereof that gives  
19 the name, title, expenditures, source and amounts of funding and  
20 date when the final project summary of any research will be  
21 available;

22 test questions, scoring keys and other examination data  
23 pertaining to the administration of an examination for employment  
24 or academic examination;

25 records of pursuit of charitable contributions or records  
26 containing the identity of a donor of a gift if the donor requires non-  
27 disclosure of the donor's identity as a condition of making the gift  
28 provided that the donor has not received any benefits of or from the  
29 institution of higher education in connection with such gift other  
30 than a request for memorialization or dedication;

31 valuable or rare collections of books or documents obtained by  
32 gift, grant, bequest or devise conditioned upon limited public  
33 access;

34 information contained on individual admission applications; and  
35 information concerning student records or grievance or  
36 disciplinary proceedings against a student to the extent disclosure  
37 would reveal the identity of the student.

38 "Judicial officer" means any active, formerly active, or retired  
39 federal, state, county, or municipal judge, including a judge of the  
40 Tax Court and any other court of limited jurisdiction established,  
41 altered, or abolished by law, a judge of the Office of Administrative  
42 Law, a judge of the Division of Workers' Compensation, and any  
43 other judge established by law who serves in the executive branch.

44 "Law enforcement agency" means a public agency, or part  
45 thereof, determined by the Attorney General to have law  
46 enforcement responsibilities.

47 "Law enforcement officer" means a person whose public duties  
48 include the power to act as an officer for the detection,

1 apprehension, arrest, and conviction of offenders against the laws of  
2 this State.

3 "Member of the Legislature" means any person elected or  
4 selected to serve in the New Jersey Senate or General Assembly.

5 "Personal firearms record" means any information contained in a  
6 background investigation conducted by the chief of police, the  
7 county prosecutor, or the Superintendent of State Police, of any  
8 applicant for a permit to purchase a handgun, firearms identification  
9 card license, or firearms registration; any application for a permit to  
10 purchase a handgun, firearms identification card license, or firearms  
11 registration; any document reflecting the issuance or denial of a  
12 permit to purchase a handgun, firearms identification card license,  
13 or firearms registration; and any permit to purchase a handgun,  
14 firearms identification card license, or any firearms license,  
15 certification, certificate, form of register, or registration statement.  
16 For the purposes of this paragraph, information contained in a  
17 background investigation shall include, but not be limited to,  
18 identity, name, address, social security number, [phone] telephone  
19 number, fax number, driver's license number, email address, or  
20 social media address of any applicant, licensee, registrant or permit  
21 holder.

22 "Personal identifying information" means information that may  
23 be used, alone or in conjunction with any other information, to  
24 identify a specific individual. For purposes of this act, personal  
25 identifying information shall include, but shall not be limited to, the  
26 following data elements: name, social security number, credit card  
27 number, debit card number, bank account information, month and  
28 day of birth, email address, any telephone number, the street  
29 address portion of any person's primary or secondary home address,  
30 or driver license number of any person.

31 "Public agency" or "agency" means any of the principal  
32 departments in the Executive Branch of State Government, and any  
33 division, board, bureau, office, commission or other instrumentality  
34 within or created by such department; the Legislature of the State  
35 and any office, board, bureau or commission within or created by  
36 the Legislative Branch; and any independent State authority,  
37 commission, instrumentality or agency. The terms also mean any  
38 political subdivision of the State or combination of political  
39 subdivisions, and any division, board, bureau, office, commission or  
40 other instrumentality within or created by a political subdivision of  
41 the State or combination of political subdivisions, and any  
42 independent authority, commission, instrumentality or agency  
43 created by a political subdivision or combination of political  
44 subdivisions.

45 "Victim of a crime" means a person who has suffered personal or  
46 psychological injury or death or incurs loss of or injury to personal  
47 or real property as a result of a crime, or if such a person is  
48 deceased or incapacitated, a member of that person's immediate  
49 family.

1 "Victim's record" means an individually identifiable file or  
2 document held by a victims' rights agency which pertains directly to  
3 a victim of a crime except that a victim of a crime shall have access  
4 to the victim's own records.

5 "Victims' rights agency" means a public agency, or part thereof,  
6 the primary responsibility of which is providing services, including,  
7 but not limited to, food, shelter, or clothing, medical, psychiatric,  
8 psychological or legal services or referrals, information and referral  
9 services, counseling and support services, or financial services to  
10 victims of crimes, including victims of sexual assault, domestic  
11 violence, violent crime, child endangerment, child abuse or child  
12 neglect, and the Victims of Crime Compensation Board, established  
13 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as  
14 the Victims of Crime Compensation Office pursuant to P.L.2007,  
15 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.  
16 (cf: P.L.2023, c.113, s.1)

17  
18 3. Section 6 of P.L.2001, c.404 (C.47:1A-5) is amended to read as  
19 follows:

20 6. a. The custodian of a government record shall permit the record  
21 to be inspected, examined, and copied by any person during regular  
22 business hours; or in the case of a municipality having a population of  
23 5,000 or fewer according to the most recent federal decennial census, a  
24 board of education having a total district enrollment of 500 or fewer,  
25 or a public authority having less than \$10 million in assets, during not  
26 less than six regular business hours over not less than three business  
27 days per week or the entity's regularly-scheduled business hours,  
28 whichever is less; unless a government record is exempt from public  
29 access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and  
30 supplemented; any other statute; resolution of either or both houses of  
31 the Legislature; regulation promulgated under the authority of any  
32 statute or Executive Order of the Governor; Executive Order of the  
33 Governor; Rules of Court; any federal law; federal regulation; or  
34 federal order. Prior to allowing access to any government record, the  
35 custodian thereof shall redact from that record any information which  
36 discloses the social security number, credit card number, **[unlisted]**  
37 telephone number, or driver license number of any person, or, in  
38 accordance with section 2 of P.L.2021, c.371 (C.47:1B-2), the home  
39 address, whether a primary or secondary residence, of any active,  
40 formerly active, or retired judicial officer, prosecutor, law enforcement  
41 officer, or child protective investigator in the Division of Child  
42 Protection and Permanency, or, as defined in section 1 of P.L.2021,  
43 c.371 (C.47:1B-1), any immediate family member thereof; except for  
44 use by any government agency, including any court or law  
45 enforcement agency, in carrying out its functions, or any private  
46 person or entity acting on behalf thereof, or any private person or  
47 entity seeking to enforce payment of court-ordered child support;  
48 except with respect to the disclosure of driver information by the New  
49 Jersey Motor Vehicle Commission as permitted by section 2 of

1 P.L.1997, c.188 (C.39:2-3.4); and except that a social security number  
2 contained in a record required by law to be made, maintained or kept  
3 on file by a public agency shall be disclosed when access to the  
4 document or disclosure of that information is not otherwise prohibited  
5 by State or federal law, regulation or order or by State statute,  
6 resolution of either or both houses of the Legislature, Executive Order  
7 of the Governor, rule of court or regulation promulgated under the  
8 authority of any statute or executive order of the Governor. Prior to  
9 allowing access to any government record, the custodian shall redact  
10 from that record any information which discloses, or which might  
11 reasonably lead to disclosure of the telephone number, email address,  
12 or any medical, financial, or personal information of a member of the  
13 public when the disclosure thereof would violate the citizen's  
14 reasonable expectation of privacy or when the public agency has a  
15 reason to believe that disclosure of such personal information may  
16 result in harassment, unwanted solicitation, identity theft, or  
17 opportunities for other criminal acts. Except where an agency can  
18 demonstrate an emergent need, a regulation that limits access to  
19 government records shall not be retroactive in effect or applied to deny  
20 a request for access to a government record that is pending before the  
21 agency, the council or a court at the time of the adoption of the  
22 regulation.

23 b. (1) A copy or copies of a government record may be purchased  
24 by any person upon payment of the fee prescribed by law or  
25 regulation.

26 Except as otherwise provided by law or regulation and except as  
27 provided in paragraph (2) of this subsection, the fee assessed for the  
28 duplication of a government record embodied in the form of printed  
29 matter shall be \$0.05 per letter size page or smaller, and \$0.07 per  
30 legal size page or larger. **【**If a public agency can demonstrate that its  
31 actual costs for duplication of a government record exceed the  
32 foregoing rates, the public agency shall be permitted to charge the  
33 actual cost of duplicating the record. The actual cost of duplicating the  
34 record, upon which all copy fees are based, shall be the cost of  
35 materials and supplies used to make a copy of the record, but shall not  
36 include the cost of labor or other overhead expenses associated with  
37 making the copy except as provided for in subsection c. of this  
38 section.**】** Access to electronic records and non-printed materials shall  
39 be provided free of charge , but the public agency may charge for the  
40 actual costs of any needed supplies such as computer discs. No fee  
41 shall be charged if the request is completed by directing the requestor  
42 to the requested government record that is available on the public  
43 agency's website or the website of another public agency.

44 (2) No fee shall be charged to a victim of a crime for a copy or  
45 copies of a record to which the crime victim is entitled to access, as  
46 provided in section 1 of P.L.1995, c.23 (C.47:1A-1.1).

47 c. Whenever the nature, format, manner of collation, or volume of  
48 a government record embodied in the form of printed matter to be  
49 inspected, examined, or copied pursuant to this section is such that the

1 record cannot be reproduced by ordinary document copying equipment  
2 in ordinary business size or involves an extraordinary expenditure of  
3 time and effort to accommodate the request, the public agency may  
4 charge, in addition to the actual cost of duplicating the record, a  
5 special service charge that **[shall be reasonable and]** shall be based  
6 upon the actual direct cost of providing the copy or copies **;** provided,  
7 however, that in the case of a municipality, rates for the duplication of  
8 particular records when the actual cost of copying exceeds the  
9 foregoing rates shall be established in advance by ordinance**], and**  
10 such special service charge shall be presumed to be reasonable.

11 The requestor shall have the opportunity to review and object to  
12 **[the]** any fee or charge prior to it being incurred.

13 d. A custodian shall permit access to a government record and  
14 provide a copy thereof in the medium or format requested if the public  
15 agency maintains the record in that medium or format. If the public  
16 agency does not maintain the record in the medium or format  
17 requested, the custodian **[shall]**, at the custodian's discretion, may  
18 either convert the record to the medium or format requested or provide  
19 a copy in some other meaningful medium or format. **[If a request is**  
20 **for a record: (1) in a medium not routinely used by the agency; (2) not**  
21 **routinely developed or maintained by an agency; or (3) requiring a**  
22 **substantial amount of manipulation or programming of information**  
23 **technology, the agency may charge, in addition to the actual cost of**  
24 **duplication, a special charge that shall be reasonable and shall be**  
25 **based on the cost for any extensive use of information technology, or**  
26 **for the labor cost of personnel providing the service, that is actually**  
27 **incurred by the agency or attributable to the agency for the**  
28 **programming, clerical, and supervisory assistance required, or both.]**  
29 If the public agency does not maintain the record in the electronic  
30 medium or format requested, the custodian shall be under no  
31 obligation to convert the record to the electronic medium or format  
32 requested but shall, at a minimum, provide a copy in the format  
33 maintained by the public agency.

34 e. Immediate access ordinarily shall be granted to budgets, bills,  
35 vouchers, contracts, including collective negotiations agreements and  
36 individual employment contracts, and public employee salary and  
37 overtime information. Immediate access to government records shall  
38 not be required to be granted for documents over 12 months old.

39 Government records shall be made available to the public on a  
40 publicly available website to the extent feasible. A public agency may  
41 enter into shared services agreements for providing certain government  
42 records electronically.

43 If the government record is readily available on a public agency's  
44 website, the custodian may require the requestor to obtain the record  
45 from the website, which shall contain a search bar feature on its home  
46 page. The custodian shall provide the requestor with directions to  
47 assist in finding the record on the website, including providing the  
48 website URL address and the location on the website of the search bar,

1 menu button, tab, link, landing page or equivalent, which contains the  
2 requested record. <sup>1</sup>【The request shall be deemed fulfilled upon  
3 notification by the custodian to the requestor of the availability and  
4 location on the website of the requested information.】 If the requestor  
5 does not respond to the custodian within seven days of the custodian  
6 providing information about a record on the public agency's website,  
7 the request shall be deemed fulfilled. If, after the custodian has  
8 provided instructions on how to find a record on a public agency's  
9 website, the requestor is unable to find the record upon making a good  
10 faith effort to locate the record on the website, the requestor shall  
11 notify the custodian within seven days of the custodian providing the  
12 information. Upon receiving such a request for assistance from a  
13 requestor, the custodian shall make a reasonable attempt to assist the  
14 requestor in finding the record on the website within seven days of the  
15 requestor notifying the custodian.<sup>1</sup>

16 f. The custodian of a public agency shall adopt a form for the use  
17 of any person who requests access to a government record held or  
18 controlled by the public agency. The form shall provide space for the  
19 name, address, email address and **【phone】** telephone number of the  
20 requestor and a brief description of the government record sought. A  
21 request shall be submitted by a requestor in the form adopted by the  
22 custodian and the custodian may deny a request that is not submitted in  
23 the form adopted by the custodian. A request may be submitted  
24 anonymously provided, however, that anonymous requestors shall not  
25 be permitted to institute proceedings pursuant to section 7 of P.L.2001,  
26 c.404 (C.47:1A-6).

27 The form also shall include space for a requestor to certify whether  
28 the government record will be used by that requestor or another person  
29 for a commercial purpose, and the requestor shall be required to  
30 provide this information for the request to be fulfilled.

31 All requests by a data broker or a requestor who is making a  
32 request on behalf of and for the use of a data broker shall be denied.  
33 The form also shall include space for a requestor to certify that the  
34 requestor is not a data broker or is not making the request on behalf of  
35 or for the use of a data broker, and the requestor shall be required to  
36 provide this information for the request to be fulfilled.

37 Data obtained through a records request shall not be sold.

38 The form shall include space for the custodian to indicate which  
39 record will be made available, when the record will be available, and  
40 the fees to be charged. The form shall also include the following: (1)  
41 specific directions and procedures for requesting a record; (2) a  
42 statement as to whether prepayment of fees or a deposit is required; (3)  
43 the time period within which the public agency is required by  
44 P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented, to  
45 make the record available; (4) a statement of the requestor's right to  
46 challenge a decision by the public agency to deny access and the  
47 procedure for filing an appeal; (5) space for the custodian to list  
48 reasons if a request is denied in whole or in part; (6) space for the

1 requestor to sign and date the form; (7) space for the custodian to sign  
2 and date the form if the request is fulfilled or denied. The custodian  
3 may require a deposit against costs for reproducing documents sought  
4 through an anonymous a request whenever the custodian anticipates  
5 that the information thus requested will cost in excess of \$5 to  
6 reproduce.

7 Custodians shall provide directions on how to submit requests for  
8 government records, including any required forms, on the public  
9 agency's website.

10 Custodians shall be permitted to provide an electronic response to  
11 any electronic records request if government records are available  
12 electronically.

13 g. A request for access to a government record shall be in writing  
14 and hand-delivered, mailed, transmitted electronically, or otherwise  
15 conveyed to the appropriate custodian. A public agency may make  
16 available to the public on its website an online form, portal, or  
17 software for transmitting requests electronically. A custodian shall  
18 promptly comply with a request to inspect, examine, copy, or provide  
19 a copy of a government record. If the custodian is unable to comply  
20 with a request for access, the custodian shall indicate the specific basis  
21 therefor on the request form and promptly return it to the requestor.  
22 The custodian shall sign and date the form and provide the requestor  
23 with a copy thereof. If the custodian of a government record asserts  
24 that part of a particular record is exempt from public access pursuant  
25 to P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented,  
26 the custodian shall delete or excise from a copy of the record that  
27 portion which the custodian asserts is exempt from access and shall  
28 promptly permit access to the remainder of the record. If the  
29 government record requested is temporarily unavailable because it is  
30 in use or in storage, the custodian shall so advise the requestor and  
31 shall make arrangements to promptly make available a copy of the  
32 record. If a request for access to a government record would  
33 substantially disrupt agency operations, the custodian may deny access  
34 to the record after attempting to reach a reasonable solution with the  
35 requestor that accommodates the interests of the requestor and the  
36 agency.

37 A party to a legal proceeding may not request a government record  
38 if the record sought is the subject of a court order in the legal  
39 proceeding or if compliance would otherwise be unreasonable,  
40 oppressive, or duplicative of already pending discovery request made  
41 in that legal proceeding, and a custodian shall not be required to  
42 complete such a request. The requestor shall be required to certify  
43 whether the government record is being sought in connection with a  
44 legal proceeding and identify the proceeding for the request to be  
45 fulfilled. For purposes of this provision, a party to a legal proceeding  
46 shall include a party in interest, any attorney representing that party,  
47 and any person acting as an agent for or on behalf of that party.

48 A custodian shall not be required to complete a request including  
49 for, but not limited to, mail, email, text messages, correspondence, or

1 social media postings and messages, if the request does not identify  
2 specific individuals or accounts to be searched and is not confined to a  
3 discrete and limited time period and a specific subject matter, or if the  
4 custodian determines that the request would require research and the  
5 collection of information from the contents of government records and  
6 the creation of new government records setting forth that research and  
7 information.

8 h. Any officer or employee of a public agency who receives a  
9 request for access to a government record shall forward the request to  
10 the custodian of the record or direct the requestor to the custodian of  
11 the record. The request shall not be considered submitted until it is  
12 received by the custodian of records.

13 i. (1) Unless a shorter time period is otherwise provided by  
14 statute, regulation, or executive order, a custodian of a government  
15 record shall grant access to a government record or deny a request for  
16 access to a government record as soon as possible, but not later than  
17 seven business days after receiving the request, or 14 business days if  
18 the request is for a commercial purpose or if the records have to be  
19 reviewed by the public agency for the purpose of the agency's  
20 compliance with P.L.2020, c.125 (C.47:1B-1 et seq.), but the custodian  
21 shall notify the requestor of the additional response time within seven  
22 business days, provided that the record is currently available and not in  
23 storage or archived. The response time periods of seven or 14  
24 business days, as established in this subsection, shall be an additional  
25 seven business days longer if the public agency is a fire district which  
26 employs one or fewer full-time employees who serve as custodians.

27 In the event a records custodian is unable to fulfill a records  
28 request due to unforeseen circumstances or circumstances that  
29 otherwise reasonably necessitate additional time to fulfill the records  
30 request, the custodian shall be entitled to a reasonable extension of any  
31 response deadline and shall notify the requestor of the time extension  
32 within seven business days after receiving the request.

33 In the event a custodian fails to respond within seven business days  
34 or 14 business days, as appropriate, after receiving a request, the  
35 failure to respond shall be deemed a denial of the request, unless the  
36 requestor has elected not to accurately identify themselves or to  
37 provide [a name,] an accurate address, email address, or telephone  
38 number [, or other means of contacting the requestor]. If the  
39 requestor has elected not to accurately identify themselves or to  
40 provide [a name,] an accurate address, email address, or telephone  
41 number, [or other means of contacting the requestor,] the custodian  
42 shall not be required to respond until the requestor [reappears before]  
43 contacts the custodian seeking a response to the original request.

44 If the government record is in storage or archived, the requestor  
45 shall be so advised within seven or 14 business days, as appropriate,  
46 after the custodian receives the request. The requestor shall be advised  
47 by the custodian when the record can be made available, which shall  
48 be no more than 21 business days from the date the requestor is so

1 advised. If the record is not made available by that time, access shall  
2 be deemed denied.

3 A public agency shall not be considered to be in possession of a  
4 public record that is created or maintained by another public agency  
5 and made available to the public agency either by remote access to a  
6 computer network or by distribution as a courtesy copy. A records  
7 custodian of a public agency that receives a request for such a record,  
8 shall not be obligated to provide the record to the requestor and shall  
9 direct the requestor within seven business days to the public agency  
10 that, to the best of their knowledge, created or maintains the requested  
11 record, at which time the request shall be considered completed.

12 The custodian shall not be required to complete an identical  
13 request for access to a government record from the same requestor if  
14 the information has not changed.

15 A requestor shall have 14 business days to retrieve the government  
16 records following notice from the custodian that the request has been  
17 completed and the records are available.

18 (2) During a period declared pursuant to the laws of this State as a  
19 state of emergency, public health emergency, or state of local disaster  
20 emergency, the deadlines by which to respond to a request for, or grant  
21 or deny access to, a government record under paragraph (1) of this  
22 subsection or subsection e. of this section shall not apply, provided,  
23 however, that the custodian of a government record shall make a  
24 reasonable effort, as the circumstances permit, to respond to a request  
25 for access to a government record within seven business days or 14  
26 business days, as appropriate, or as soon as possible thereafter.

27 j. A custodian shall **post** prominently in public view in the part  
28 or parts of the office or offices of the custodian that are open to or  
29 frequented by the public a statement that sets forth in clear, concise  
30 and specific terms **the** include information on the public agency's  
31 website and public records request form regarding a requestor's right  
32 to appeal a denial of, or failure to provide, access to a government  
33 record [by any person for inspection, examination, or copying or for  
34 purchase of copies thereof] and the procedure by which an appeal may  
35 be filed, which shall include the website address and toll-free  
36 information line phone number of the Government Records Council.

37 k. The files maintained by the Office of the Public Defender that  
38 relate to the handling of any case shall be considered confidential and  
39 shall not be open to inspection by any person unless authorized by law,  
40 court order, or the State Public Defender.

41 (cf: P.L.2023, c.113, s.2)

42

43 4. Section 7 of P.L.2001, c.404 (C.47:1A-6) is amended to read as  
44 follows:

45 7. A person who is denied access to a government record by the  
46 custodian of the record, at the option of the requestor who is accurately  
47 identified by name, may, within 45 days of the date of denial:

1 institute a proceeding to challenge the custodian's decision by  
2 filing an action in Superior Court which shall be heard in the vicinage  
3 where it is filed by a Superior Court Judge who has been designated to  
4 hear such cases because of that judge's knowledge and expertise in  
5 matters relating to access to government records; or

6 in lieu of filing an action in Superior Court, file a complaint with  
7 the Government Records Council established pursuant to section 8 of  
8 P.L.2001, c.404 (C.47:1A-7).

9 The right to institute any proceeding under this section shall be  
10 solely that of the requestor. Any such proceeding shall proceed in a  
11 summary or expedited manner. The public agency shall have the  
12 burden of proving that the denial of access is authorized by law. If it is  
13 determined that access has been improperly denied, the court or  
14 **[agency head]** Government Records Council shall order that access be  
15 allowed. A requestor who prevails in any proceeding **[shall]** may be  
16 entitled to a reasonable attorney's fee. In determining whether to  
17 award attorney's fees, the court or the Government Records Council  
18 may consider whether the public agency is found to have knowingly  
19 and willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.), or to have  
20 unreasonably denied access.

21 If the records sought are produced by the public agency within  
22 seven business days of service of an action in Superior Court or a  
23 complaint before the Government Records Council, <sup>1</sup>upon notification  
24 to the Superior Court or the Government Records Council,<sup>1</sup> the matter  
25 shall be dismissed without prejudice and the requestor may be entitled  
26 to a reasonable attorney's fee if the custodian knew or should have  
27 known that the denial of access violated P.L.1963, c.73 (C.47:1A-1 et  
28 seq.).

29 (cf: P.L.2001, c.404, s.7)

30  
31 5. Section 8 of P.L.2001, c.404 (C.47:1A-7) is amended to read as  
32 follows:

33 8. a. (1) There is established in the Department of Community  
34 Affairs a Government Records Council. The council shall consist of  
35 the Commissioner of Community Affairs or the commissioner's  
36 designee, **[the Commissioner of Education or the commissioner's**  
37 designee, and three public members appointed by the Governor, with  
38 the advice and consent of the Senate, not more than two of whom shall  
39 be of the same political party. The three public members shall serve  
40 during the term of the Governor making the appointment and until the  
41 appointment of a successor] who shall serve as Chair, and eight  
42 public members appointed as follows: four appointed by the Governor  
43 with the advice and consent of the Senate <sup>1</sup>, no more than two of  
44 whom shall be members of the same political party<sup>1</sup> ; two directly  
45 appointed by the Governor from persons recommended by the  
46 President of the Senate <sup>1</sup>, no more than one of whom shall be a  
47 member of the same political party<sup>1</sup> ; and two directly appointed by  
48 the Governor from persons recommended by the Speaker of the

1 General Assembly <sup>1</sup>, no more than one of whom shall be a member of  
2 the same political party<sup>1</sup>. Each public member shall serve for a term  
3 of five years and until a successor is appointed and qualified.

4 (2) Notwithstanding <sup>1</sup>any provision of subsection a. (1) of this  
5 section <sup>1</sup>the provisions of paragraph (1) of this subsection <sup>1</sup>, or any  
6 other law, rule, or regulation to the contrary, within 90 days following  
7 the enactment date of P.L. , c. (pending before the Legislature as  
8 this bill), the Governor shall directly appoint eight public members to  
9 the council, each of whom shall serve for a term of three years and  
10 until a successor is appointed and qualified, as follows: two from  
11 persons recommended by the President of the Senate, <sup>1</sup>no more than  
12 one of whom shall be a member of the same political party;<sup>1</sup> two from  
13 persons recommended by the Speaker of the General Assembly, <sup>1</sup>no  
14 more than one of whom shall be a member of the same political party;<sup>1</sup>  
15 and four appointed at the sole discretion of the Governor <sup>1</sup>, no more  
16 than two of whom shall be members of the same political party<sup>1</sup>. The  
17 terms of office of the members of the council serving on the date of  
18 enactment of P.L. , c. (pending before the Legislature as this  
19 bill), shall expire upon the Governor's direct appointment of the new  
20 members pursuant to this subsection.

21 (3) A public member shall not hold any other State or local elected  
22 or appointed office or employment while serving as a member of  
23 the council. A public member shall not receive a salary for service  
24 on the council but shall be reimbursed for reasonable and necessary  
25 expenses associated with serving on the council and may receive such  
26 per diem payment as may be provided in the annual appropriations  
27 act receive a salary equivalent to that provided by law for a public  
28 member of the Local Finance Board of the Division of Local  
29 Government Services in the Department of Community Affairs. A  
30 member may be removed by the Governor for cause. Vacancies  
31 among the public members shall be filled in the same manner in  
32 which the original appointment was made. The members of the  
33 council shall choose one of the public members to serve as the  
34 council's chair.] by appointment by the Governor, according to the  
35 provisions of subsection a. of this section, and for the remainder of the  
36 unexpired term. The council may employ an executive director and  
37 such professional and clerical staff as it deems necessary and may call  
38 upon the Department of Community Affairs for such assistance as it  
39 deems necessary and may be available to it.

40 b. The Government Records Council shall:  
41 establish an informal mediation program to facilitate the resolution  
42 of disputes regarding access to government records;  
43 receive, hear, review and adjudicate a complaint filed by any  
44 person concerning a denial of access to a government record by a  
45 records custodian;

1 issue advisory opinions, on its own initiative, as to whether a  
2 particular type of record is a government record which is accessible to  
3 the public;

4 prepare guidelines and an informational pamphlet for use by  
5 records custodians in complying with the law governing access to  
6 public records;

7 prepare an informational pamphlet explaining the public's right of  
8 access to government records and the methods for resolving disputes  
9 regarding access, which records custodians shall make available to  
10 persons requesting access to a government record;

11 prepare lists for use by records custodians of the types of records in  
12 the possession of public agencies which are government records;

13 make training opportunities available for records custodians and  
14 other public officers and employees which explain the law governing  
15 access to public records; and

16 operate an informational website and a toll-free helpline staffed by  
17 knowledgeable employees of the council during regular business hours  
18 which shall enable any person, including records custodians, to call for  
19 information regarding the law governing access to public records and  
20 allow any person to request mediation or to file a complaint with the  
21 council when access has been denied[;] .

22 In implementing the provisions of [subsections d. and e. of] this  
23 section, the council shall: act, to the maximum extent possible, at the  
24 convenience of the parties; utilize video conferencing,  
25 teleconferencing, faxing of documents, e-mail and similar forms of  
26 modern communication; conduct virtual meetings and hearings, when  
27 practical and at the discretion of the council; and when in-person  
28 meetings are necessary, send representatives to meet with the parties at  
29 a location convenient to the parties.

30 The council shall periodically review the information and format  
31 of its website and make such adjustments as shall be deemed necessary  
32 to ensure that the information is clearly presented, accessible, and  
33 useful for the general public. The council shall conduct such an initial  
34 review within six months following the effective date of P.L. , c.  
35 (pending before the Legislature as this bill).

36 c. At the request of the council, a public agency shall produce  
37 documents and ensure the attendance of witnesses with respect to the  
38 council's investigation of any complaint or the holding of any hearing.

39 d. Upon receipt of a written complaint signed by any person  
40 alleging that a custodian of a government record has improperly  
41 denied that person access to a government record, the council shall  
42 offer the parties the opportunity to resolve the dispute through  
43 mediation. Mediation shall enable a person who has been denied  
44 access to a government record and the public agency that employs the  
45 records custodian who denied or failed to provide access thereto to  
46 attempt to mediate the dispute through a process whereby a neutral  
47 mediator, who shall be trained in mediation selected by the council,  
48 acts to encourage and facilitate the resolution of the dispute.  
49 Mediation shall be an informal, nonadversarial process having the

1 objective of helping the parties reach a mutually acceptable, voluntary  
2 agreement. The mediator shall assist the parties in identifying issues,  
3 foster joint problem solving, and explore settlement alternatives.

4 e. If any party declines mediation or if mediation fails to resolve  
5 the matter to the satisfaction of all parties, the council shall initiate an  
6 investigation concerning the facts and circumstances set forth in the  
7 complaint. The council shall make a determination as to whether the  
8 complaint is within its jurisdiction or frivolous or without any  
9 reasonable factual basis. The council may assign staff attorneys to  
10 conduct the investigation, present findings, and make  
11 recommendations to the council. If the council shall conclude that the  
12 complaint is outside its jurisdiction, frivolous, or without factual basis,  
13 it shall reduce that conclusion to writing and transmit a copy thereof to  
14 the complainant and to the public agency that employs the records  
15 custodian against whom the complaint was filed. Otherwise, the  
16 council shall notify the public agency that employs the records  
17 custodian against whom the complaint was filed of the nature of the  
18 complaint and the facts and circumstances set forth therein. The  
19 public agency that employs the records custodian shall have the  
20 opportunity to present the board with any statement or information  
21 concerning the complaint which the **【custodian】** agency wishes. If the  
22 council is able to make a determination as to a record's accessibility  
23 based upon the complaint and the **【custodian's】** agency's response  
24 thereto, it shall reduce that conclusion to writing and transmit a copy  
25 thereof to the complainant and to the public agency that employs the  
26 records custodian against whom the complaint was filed. If the  
27 council is unable to make a determination as to a record's accessibility  
28 based upon the complaint and the **【custodian's】** agency's response  
29 thereto, the council shall conduct a hearing on the matter in conformity  
30 with the rules and regulations provided for hearings by a State agency  
31 in contested cases under the "Administrative Procedure Act,"  
32 P.L.1968, c.410 (C.52:14B-1 et seq.), insofar as they may be  
33 applicable and practicable. The council shall, by a majority vote of its  
34 members, render a decision as to whether the record which is the  
35 subject of the complaint is a government record which must be made  
36 available for public access pursuant to P.L.1963, c.73 (C.47:1A-1 et  
37 seq.) as amended and supplemented. If the council determines, by a  
38 majority vote of its members, that a custodian **【has】** is found to have  
39 knowingly and willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.),  
40 as amended and supplemented, and **【is found】** to have unreasonably  
41 denied access under the totality of the circumstances, the council may  
42 impose the penalties provided for in section 12 of P.L.2001, c.404  
43 (C.47:1A-11) on the public agency that employs the custodian. A  
44 decision of the council may be appealed to the Appellate Division of  
45 the Superior Court. Such appeals shall be filed within 30 days from  
46 the date the council renders a decision. A decision of the council shall  
47 not have value as a precedent for any case initiated in Superior Court  
48 pursuant to section 7 of P.L.2001, c.404 (C.47:1A-6). All proceedings

1 of the council pursuant to this subsection shall be conducted as  
2 expeditiously as possible.

3 Beginning 18 months following the effective date of  
4 P.L. , c. (pending before the Legislature as this bill), the council  
5 shall adjudicate all complaints that come before it within 90 days of  
6 the complaint's filing, with the ability to extend for 30 days for good  
7 cause, exclusive of any time period during which the parties are  
8 engaged in a mediation process pursuant to this section. The council  
9 shall make such organizational adjustments and modify its procedures  
10 as it deems necessary to ensure that complaints are adjudicated in such  
11 a timeframe.

12 f. The council shall not charge any party a fee in regard to actions  
13 filed with the council. The council shall be subject to the provisions of  
14 the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6), except  
15 that the council may go into closed session during that portion of any  
16 proceeding during which the contents of a contested record would be  
17 disclosed. **【A requestor who prevails in any proceeding shall be**  
18 **entitled to a reasonable attorney's fee.】**

19 g. The council shall not have jurisdiction over the Judicial or  
20 Legislative Branches of State Government or any agency, officer, or  
21 employee of those branches.

22 (cf: P.L.2001, c.404, s.8)

23

24 6. Section 12 of P.L.2001, c.404 (C.47:1A-11) is amended to  
25 read as follows:

26 12. a. **【A】** If a public official, officer, employee, or custodian  
27 **【who】 is found to have knowingly and willfully 【violates】 violated**  
28 P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented,  
29 and 【is found】 to have unreasonably denied access under the  
30 totality of the circumstances, the public agency that employs the  
31 custodian, officer, employee, or official shall be subject to a civil  
32 penalty of \$1,000 for an initial violation, \$2,500 for a second  
33 violation that occurs within 10 years of an initial violation, and  
34 \$5,000 for a third violation that occurs within 10 years of an initial  
35 violation. 【This penalty】 The penalties authorized pursuant to this  
36 subsection may be imposed by the courts or by the Government  
37 Records Council.

38 b. A requestor who is found to have sold the data obtained by a  
39 records request, who is found to have intentionally failed to certify  
40 that a records request is for a commercial purpose, who is a data  
41 broker, or who is making the request on behalf of and for the use of  
42 a data broker, and is found to have intentionally certified that the  
43 requestor is not a data broker or is not making the request on behalf  
44 of and for the use of a data broker, shall be subject to a civil penalty  
45 of \$1,000 for the first offense, \$2,500 for the second offense, and  
46 \$5,000 for each subsequent offense. The penalties may be imposed  
47 by the courts.

1     c. These penalties shall be collected and enforced in  
2 proceedings in accordance with the "Penalty Enforcement Law of  
3 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court  
4 governing actions for the collection of civil penalties. The Superior  
5 Court shall have jurisdiction of proceedings for the collection and  
6 enforcement of the penalty imposed by this section.

7     d. Appropriate disciplinary proceedings may be initiated  
8 against a public official, officer, employee or custodian against  
9 whom a penalty has been imposed.

10 (cf: P.L.2001, c.404, s.12)

11  
12     7. Section 2 of P.L.2021, c.371 (C.47:1B-2) is amended to read  
13 as follows:

14     2. a. An authorized person seeking the redaction or  
15 nondisclosure of the home address of any covered person from  
16 certain records and Internet postings consistent with section 2 of  
17 P.L.2015, c.226 (C.47:1-17), section 1 of P.L.1995, c.23 (C.47:1A-  
18 1.1), or section 6 of P.L.2001, c.404 (C.47:1A-5) shall submit a  
19 request in accordance with section 1 of P.L.2021, c.371 (C.47:1B-1)  
20 to the Office of Information Privacy through the secure portal  
21 established by the office. The address shall only be subject to  
22 redaction or nondisclosure if a request is submitted to and approved  
23 by the Director of the Office of Information Privacy.

24     b. (1) A public agency shall redact or cease to disclose, in  
25 accordance with section 6 of P.L.2001, c.404 (C.47:1A-5) and  
26 section 1 of P.L.1995, c.23 (C.47:1A-1.1), respectively, the home  
27 address of a covered person approved by the Office of Information  
28 Privacy not later than 30 days following the approval. A public  
29 agency shall also discontinue the redaction or nondisclosure of the  
30 home address of any covered person for whom a revocation request  
31 has been approved not later than 30 days following the approval.

32     (2) A custodian of a public agency who makes a reasonable  
33 effort to comply with this subsection shall be presumed to have  
34 acted without willful, purposeful, or reckless disregard of the law.

35     c. An immediate family member who has sought and received  
36 approval under subsection a. of this section and who no longer  
37 resides with the active, formerly active, or retired judicial officer,  
38 law enforcement officer, child protective investigator in the  
39 Division of Child Protection and Permanency, or prosecutor shall  
40 submit through the portal a revocation request not later than 30 days  
41 from the date on which the immediate family member no longer  
42 resided with the judicial officer, law enforcement officer, child  
43 protective investigator in the Division of Child Protection and  
44 Permanency, or prosecutor.

45     d. A person submitting a request pursuant to subsection a. of  
46 this section shall affirm in writing that the person understands that  
47 certain rights, duties, and obligations are affected as a result of the  
48 request, including:

- 1 (1) the receipt of certain notices from non-governmental entities
- 2 as would otherwise be required pursuant to the "Municipal Land
- 3 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.);
- 4 (2) the signing of petitions related to the nomination or election
- 5 of a candidate to public office or related to any public question;
- 6 (3) the eligibility or requirements related to seeking or accepting
- 7 the nomination for election or election to public office, or the
- 8 appointment to any public position;
- 9 (4) the sale or purchase of a home or other property, recordation
- 10 of a judgment, lien or other encumbrance on real or other property,
- 11 and any relief granted based thereon;
- 12 (5) the ability to be notified of any class action suit or
- 13 settlement; and
- 14 (6) any other legal, promotional, or official notice which would
- 15 otherwise be provided to the person but for the redaction or
- 16 nondisclosure of such person's home address pursuant to subsection
- 17 a. of this section.
- 18 (cf: P.L.2023, c.113, s.4)

19

20 8. (New section) a. Notwithstanding any other law or rule or

21 regulation to the contrary, whenever there is filed a verified

22 complaint to the Superior Court of the county in which the request

23 for access to government records was made under P.L.1963, c.73

24 (C.47:1A-1 et seq.) alleging that a requestor has sought records

25 thereunder for the purpose to harass a public agency, or to

26 substantially interrupt government function, the court may issue a

27 protective order limiting the number and scope of requests the

28 requestor may make or order such other relief as it deems

29 appropriate, including referral of the matter to mediation. The court

30 may issue the protective order if it finds that the requestor has

31 sought records under P.L.1963, c.73 (C.47:1A-1 et seq.) for the

32 purpose of harassing the public agency, or to substantially interrupt

33 government function, as the term harass is defined in N.J.S.2C:33-

34 4. The complaint shall be accompanied by a declaration of facts by

35 the public agency withholding the records demonstrating that it has

36 complied with P.L.1963, c.73 (C.47:1A-1 et seq.) and has made a

37 good faith effort to reach an informal resolution of the issues

38 relating to the records requests.

39 The requestor shall have notice and an opportunity to answer the

40 allegations set forth in the petition submitted by the public agency.

41 The public agency shall have the burden of proof by clear and

42 convincing evidence.

43 The court's consideration of a public agency's complaint for

44 relief shall proceed in a summary or expedited manner.

45 b. The order specified in subsection a. of this section may limit,

46 or, in appropriate circumstances, eliminate the public agency's duty

47 to respond to government records requests from the requestor in the

48 future.

1       9. (New section) a. A data broker business entity conducting  
2 business in this State shall register with the Division of Revenue  
3 and Enterprise Services in the Department of the Treasury. The  
4 division shall impose an annual fee of \$250 for each registration.  
5 The fee shall be deposited into the fund created pursuant to  
6 subsection c. of this section. For the purpose of this section, "data  
7 broker" shall have the same meaning as in section 1 of P.L.1995,  
8 c.23 (C.47:1A-1.1).

9       b. The Department of the Treasury may issue rules and  
10 regulations necessary to effectuate the purpose of this section. The  
11 rules and regulations shall be effective immediately upon filing  
12 with the Office of Administrative Law for a period not to exceed  
13 one year and may, thereafter, be amended, adopted, or readopted in  
14 accordance with the "Administrative Procedure Act," P.L.1968,  
15 c.410 (C.52:14B-1 et seq.).

16       c. There shall be created in the Department of the Treasury a  
17 dedicated, non-lapsing fund for providing grants to political  
18 subdivisions of the State for the purpose of providing access to  
19 government records electronically, including through the use of  
20 shared services agreements. The fund shall be administered by the  
21 State Treasurer. Monies in the fund shall be appropriated annually  
22 solely for this purpose.

23

24       10. (New section) The Attorney General shall establish a Police  
25 Record Access Improvement Task Force to investigate the existing  
26 statutes governing public access to police records and develop  
27 recommendations for necessary changes to the law.

28       The members of the Police Record Access Improvement Task  
29 Force shall be comprised of 12 members. The membership of the  
30 task force shall be as follows:

31       The Attorney General, or the Attorney's General designee, who  
32 shall serve ex officio, as Chair;

33       Seven public members, appointed by the Governor, one who is a  
34 member of law enforcement, one who is a county or municipal  
35 prosecutor, one who is a criminal defense attorney or public  
36 defender, one who is a member of a social justice advocacy  
37 organization, one who is a member of the New Jersey Press  
38 Association, one who is a member of the New Jersey League of  
39 Municipalities, and one who is a member of the New Jersey  
40 Association of Counties;

41       Two public members, appointed by the Governor upon the  
42 recommendation of the President of the Senate; and

43       Two public members, appointed by the Governor upon the  
44 recommendation of the Speaker of the General Assembly.

45       The task force shall submit to the Governor and to the  
46 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
47 19.1), recommendations for changes to the law.

48       The Department of Law and Public Safety shall provide  
49 stenographic, clerical, and other administrative assistance and

1 professional staff as the task force requires to carry out its work.  
2 The task force shall be entitled to call to its assistance and avail  
3 itself of the services of the employees of any State, county, or  
4 municipal department, board, bureau, commission, or agency as it  
5 may require and as may be available for its purposes.

6 The public members of the task force shall serve without  
7 compensation, but may be reimbursed for necessary and actual  
8 expenses incurred in the performance of their duties to the extent  
9 that funds are made available for that purpose.

10

11 11. (New section) a. The provisions of this section shall apply  
12 only to the New Jersey Division of Elections, the New Jersey  
13 Election Law Enforcement Commission, County Boards of  
14 Elections, County Superintendents of Elections, County Clerks,  
15 Municipal Clerks, Fire District Board Clerks, School District  
16 Business Administrators, and School District Board Secretaries,  
17 hereafter referred to as an “election agency” or “election agencies.”  
18 Except as otherwise provided for in this section, all provisions of  
19 this act, P.L. , c. (pending before the Legislature as this bill),  
20 shall apply to all election agencies. Nothing herein shall be  
21 construed to mean that an election agency is required to provide a  
22 record in response to a request for records, unless it has made or  
23 received and maintains said requested record pursuant to law or  
24 regulation.

25 b. Notwithstanding any other law, rule, or regulation to the  
26 contrary, except as otherwise provided in sections 2 and 3 of  
27 P.L.2021, c.371 (C.47:1B-1 et seq.), subsection b. of section 1 of  
28 P.L.1994, c.148 (C.19:31-3.2), or in any rules or regulations  
29 promulgated by the Secretary of State pursuant to subsection f. of  
30 this section, the following shall be records for which the provided  
31 information shall not be redacted by an election agency except for  
32 voter signatures, Social Security numbers, driver license numbers,  
33 and non-driver identification numbers:

34 (1) Voter registration forms and forms changing the provided  
35 information thereof;

36 (2) Party affiliation forms and forms changing the provided  
37 information thereof;

38 (3) Applications for a vote-by-mail ballot, except as otherwise  
39 provided in sections 3 and 13 of P.L.2020, c.70 (C.19:63-1 et seq.);

40 (4) Forms or reports submitted to the Election Law Enforcement  
41 Commission;

42 (5) Nominating petitions for any candidate for any elected  
43 office, which shall be provided in a manner that includes voter  
44 signatures on such petitions;

45 (6) Petitions to recall an elected official, which shall be  
46 provided in a manner that includes voter signatures on such  
47 petitions;

1 (7) Petitions or submissions for any public question or referenda  
2 to be considered by voters, which shall be provided in a manner that  
3 includes voter signatures on such petitions;

4 (8) Any submissions, responses, objections, or challenges  
5 pertaining to a record referred to in this subsection; and

6 (9) Any addendums, amendments, corrections, withdrawals, or  
7 accompanying forms or submissions pertaining to a record referred  
8 to in this subsection.

9 c. Notwithstanding any other law, rule, or regulation to the  
10 contrary, the following shall be records and information that an  
11 election agency shall make available to requestors for immediate  
12 access and transmission via email as soon as possible, but not later  
13 than two business days after receipt of the request, provided the  
14 request is not for a commercial purpose, for which a fee shall not be  
15 charged nor collected:

16 (1) Nominating petitions for any candidate for any elected office  
17 filed with the election agency within the preceding 90 days of the  
18 date the request is received;

19 (2) Petitions to recall an elected official filed with the election  
20 agency within the preceding 90 days of the date the request is  
21 received;

22 (3) Petitions or submissions for any public question or referenda  
23 to be considered by voters filed with the election agency within the  
24 preceding 90 days of the date the request is received;

25 (4) Any submissions, responses, objections, or challenges filed  
26 with the election agency within the preceding 90 days pertaining to  
27 a record referred to in this subsection;

28 (5) Any addendums, amendments, corrections, withdrawals, or  
29 accompanying forms or submissions filed with the election agency  
30 within the preceding 90 days pertaining to a record referred to in  
31 this subsection; and

32 (6) The inspection and transmission deadline requirements of  
33 this subsection shall be deemed satisfied if an election agency posts  
34 on its website the records and information referred to in this  
35 subsection.

36 d. Notwithstanding any other law, rule, or regulation to the  
37 contrary, the following in paragraphs (1) through (4) of this  
38 subsection shall be records and information that an election agency  
39 shall make available to requestors for immediate access and  
40 transmission via email as soon as possible, provided the request  
41 pertains only to an election to be held within 16 days after the date  
42 of the request and is not for a commercial purpose. The  
43 transmission shall be not later than two business days after receipt  
44 of the request when said request is made between one and 15 days  
45 before the date of the election pertaining to the request. For any  
46 request submitted the day before an election by noon, the request  
47 shall be completed by noon the day of the election. A fee shall not  
48 be charged nor collected. This subsection shall apply to:

1 (1) Lists, in a format capable of being sorted by the requestor, of  
2 registered voters, including their name, address, party affiliation,  
3 and municipal voting ward and district, who have requested, been  
4 mailed, or returned a vote-by-mail ballot, including the dates the  
5 ballot was requested by the voter, mailed to the voter, and received  
6 by the appropriate election agency;

7 (2) Lists, in a format capable of being sorted by the requestor, of  
8 registered voters, including their name, address, party affiliation,  
9 and municipal voting ward and district, who have cast a vote during  
10 the early voting period, including the date and polling location the  
11 vote was cast;

12 (3) The inspection and transmission deadline requirements of this  
13 subsection shall be deemed satisfied if an election agency posts on  
14 its website the records and information referred to in this  
15 subsection; and

16 (4) Whenever the requirements of this subsection would cause a  
17 voter's privacy to be violated, the information shall be provided in a  
18 manner that maintains the privacy of the voter.

19 e. The following records or information shall not be subject to  
20 disclosure pursuant to a request for public records:

21 (1) Ballots marked by a voter, vote tabulations, or election  
22 results for any election prior to the time of the closing of the polls  
23 on the date of the election, except as otherwise provided for by law,  
24 rule, or regulation; and

25 (2) Manuals instructions, specifications, technical information,  
26 or programming code of computers, software, applications,  
27 networks, tablets, voting machines, printers, scanners, and any other  
28 equipment, systems, policies or plans used for the conduct of  
29 elections, the disclosure of which, could have the potential to  
30 jeopardize the security, integrity or accuracy of the conduct of  
31 elections, tabulation of votes, or determination of election results,  
32 except as otherwise provided for by law, rule, or regulation, or in  
33 response to a subpoena or order of a court or tribunal of competent  
34 jurisdiction.

35 f. The Secretary of State may adopt regulations necessary to  
36 effectuate the purposes of this act, which regulations shall be  
37 effective immediately upon filing with the Office of Administrative  
38 Law for a period not to exceed 18 months, and may, thereafter, be  
39 amended, adopted or readopted in accordance with the provisions of  
40 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
41 seq.).

42  
43 12. (New section) a. The provisions of section 1 of P.L.1963,  
44 c.73 (C.47:1A-1), section 1 of P.L.1995, c.23 (C.47:1A-1.1),  
45 sections 6, 7, and 8 of P.L.2001, c.404 (C.47:1A-5 through 47:1A-  
46 7), and section 2 of P.L.2021, c.371 (C.47:1B-2), as amended by  
47 sections 1 through 5 and section 7 of P.L. , c. (pending before  
48 the Legislature as this bill), shall apply retroactively to all  
49 complaints and appeals pending before the Government Records

1 Council, the Superior Court or the Supreme Court of New Jersey  
2 filed prior to the effective date of P.L. , c. (pending before the  
3 Legislature as this bill), provided, however, that nothing in this  
4 section shall be construed as to retroactively reduce the statute of  
5 limitations governing any complaint or appeal pending before the  
6 Government Records Council, the Superior Court or the Supreme  
7 Court of New Jersey.

8 b. All complaints and appeals pending before the Government  
9 Records Council or the Superior Court filed prior to the effective  
10 date of P.L. , c. (pending before the Legislature as this bill),  
11 either anonymously or using a fictitious name or identity, may be  
12 dismissed with prejudice upon a motion by the public agency,  
13 unless the complainant files an amendment to their complaint that  
14 accurately identifies their name and mailing address within 90 days  
15 of the effective date of P.L. , c. (pending before the Legislature  
16 as this bill).

17 c. The parties to any complaint or appeal pending before the  
18 Government Records Council, the Superior Court or the Supreme  
19 Court of New Jersey filed prior to the effective date of  
20 P.L. , c. (pending before the Legislature as this bill), shall be  
21 permitted to file an amendment to their respective complaints and  
22 answers within 90 days of the effective date of P.L. , c. (pending  
23 before the Legislature as this bill).

24

25 13. a. There is hereby appropriated \$4,000,000 from the State  
26 General Fund to the Department of Community Affairs to provide  
27 grants to political subdivisions of the State for the purpose of  
28 making government records that are accessible under P.L.1963, c.73  
29 (C.47:1A-1 et seq.) available electronically, including through the  
30 use of shared services agreements.

31 b. There is hereby appropriated \$4,000,000 from the State  
32 General Fund to the Department of Community Affairs for the  
33 Government Records Council.

34

35 14. This act shall take effect 30 days following the date of  
36 enactment, except as otherwise provided for in this act, and except  
37 that section 9 and section 11 shall take effect eight months  
38 following the date of enactment. The Attorney General,  
39 Department of Community Affairs, the Government Records  
40 Council, the Department of the Treasury, and the Department of  
41 State may take any anticipatory administrative action in advance as  
42 shall be necessary for the implementation of this act.

[Second Reprint]

**SENATE, No. 2930**

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**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

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INTRODUCED MARCH 4, 2024

**Sponsored by:**

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**Senator ANTHONY M. BUCCO**

**District 25 (Morris and Passaic)**

**Assemblyman JOE DANIELSEN**

**District 17 (Middlesex and Somerset)**

**Assemblywoman VICTORIA A. FLYNN**

**District 13 (Monmouth)**

**Co-Sponsored by:**

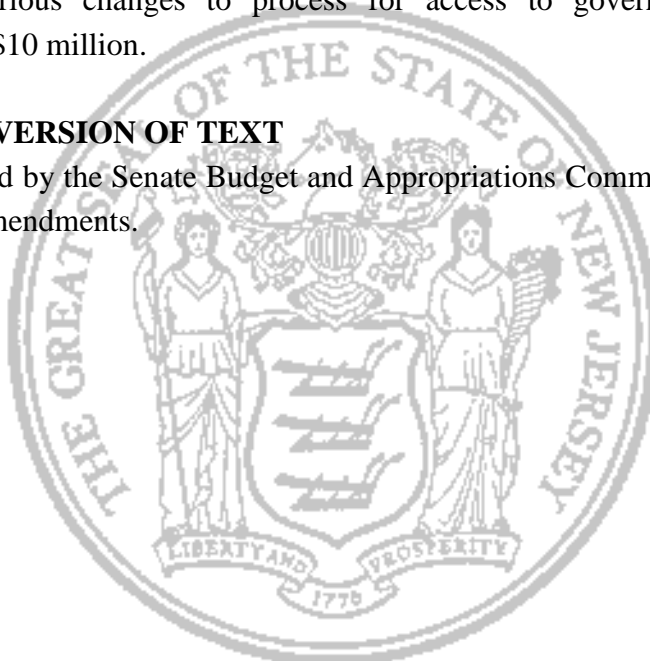
**Assemblyman Atkins**

**SYNOPSIS**

Makes various changes to process for access to government records; appropriates \$10 million.

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on May 9, 2024, with amendments.



**(Sponsorship Updated As Of: 5/13/2024)**

1 AN ACT concerning access to government records, amending and  
2 supplementing various parts of the statutory law, and making an  
3 appropriation.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 <sup>2</sup>**[1.** Section 1 of P.L.1963, c.73 (C.47:1A-1) is amended to read  
9 as follows:

10 1. The Legislature finds and declares it to be the public policy  
11 of this State that:

12 government records shall be readily accessible for inspection,  
13 copying, or examination by the citizens of this State, with certain  
14 exceptions, for the protection of the public interest, and any  
15 limitations on the right of access accorded by P.L.1963, c.73  
16 (C.47:1A-1 et seq.) as amended and supplemented, shall be  
17 construed in favor of the public's right of access;

18 all government records shall be subject to public access unless  
19 exempt from such access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as  
20 amended and supplemented; any other statute; resolution of either  
21 or both houses of the Legislature; regulation promulgated under the  
22 authority of any statute or Executive Order of the Governor;  
23 Executive Order of the Governor; Rules of Court; any federal law,  
24 federal regulation, or federal order;

25 a public agency has a responsibility and an obligation to  
26 safeguard from public access a citizen's personal information with  
27 which it has been entrusted, or information that might reasonably  
28 lead to disclosure of a person's personal information, when  
29 disclosure thereof would violate the citizen's reasonable expectation  
30 of privacy, or when the public agency has reason to believe that  
31 disclosure of such personal information may result in harassment,  
32 unwanted solicitation, identity theft, or opportunities for other  
33 criminal acts; and

34 nothing contained in P.L.1963, c.73 (C.47:1A-1 et seq.), as  
35 amended and supplemented, shall be construed as affecting in any  
36 way the common law right of access to any record, including but  
37 not limited to criminal investigatory records of a law enforcement  
38 agency.

39 (cf: P.L.2001, c.404, s.1)]<sup>2</sup>

40  
41 <sup>2</sup>**[2.]** 1.<sup>2</sup> Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended  
42 to read as follows:

43 1. As used in P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and  
44 supplemented:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[ thus ]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SBA committee amendments adopted March 11, 2024.

<sup>2</sup>Senate SBA committee amendments adopted May 9, 2024.

1 "Biotechnology" means any technique that uses living organisms,  
2 or parts of living organisms, to make or modify products, to improve  
3 plants or animals, or to develop micro-organisms for specific uses;  
4 including the industrial use of recombinant DNA, cell fusion, and  
5 novel bioprocessing techniques.

6 "Child protective investigator in the Division of Child Protection  
7 and Permanency" means an employee of the Division of Child  
8 Protection and Permanency in the Department of Children and  
9 Families whose primary duty is to investigate reports of child abuse  
10 and neglect, or any other employee of the Department of Children and  
11 Families whose duties include investigation, response to, or review of  
12 allegations of child abuse and neglect.

13 "Commercial purpose" means the direct or indirect use of any  
14 part of a government record for sale, resale, solicitation, rent, or  
15 lease of a service, or any use by which the user expects a profit  
16 either through commission, salary, or fee. "Commercial purpose"  
17 shall not include <sup>2</sup> [using, distributing, gathering, procuring,  
18 transmitting, compiling, editing, disseminating, or publishing of  
19 information or data] the use of a government record for any  
20 purpose<sup>2</sup> by <sup>2</sup>:

21 (1)<sup>2</sup> the news media, or any parent company, subsidiary, or  
22 affiliate of any news media, as defined by section 2 of P.L.1977,  
23 c.253 (C.2A:84A-21a) <sup>2</sup> [, or by] :

24 (2)<sup>2</sup> any news, journalistic, educational, scientific, scholarly, or  
25 governmental organization <sup>2</sup> [, or by] :

26 (3)<sup>2</sup> any person authorized to act on behalf of a candidate  
27 committee, joint candidate committee, political committee,  
28 continuing political committee, political party committee, or  
29 legislative leadership committee, as defined by section 3 of  
30 P.L.1973, c.83 (C.19:44A-3), registered with the New Jersey  
31 Election Law Enforcement Commission <sup>2</sup>:

32 (4) any labor organization;

33 (5) any contractor signatory to a collective bargaining agreement  
34 seeking information material to the enforcement of State or federal  
35 statutes or regulations regarding, but not limited to, wage and hour  
36 protections, workplace safety, or public procurement and public  
37 bidding, including, but not limited to, requests for certified payrolls  
38 or information about all bids submitted in response to a public  
39 procurement process subsequent to the deadline for the submission  
40 of all bids for that solicitation;

41 (6) any employee, agent, contractor, or affiliates of any entity  
42 identified in paragraphs (1) through (5) of this definition in this  
43 section; or

44 (7) any non-profit entity, including organizations or individuals  
45 qualified for exemption from federal taxation pursuant to section  
46 501(c)(3) of the federal Internal Revenue Code, 26 U.S.C. s.501(c)(3)  
47 and section 501(c)(4) of the federal Internal Revenue Code, 26 U.S.C.  
48 s.501(c)(4), when the entity does not sell, resell, solicit, rent, or lease a

1 government record to an unaffiliated third party in a way in which the  
2 entity expects a fee<sup>2</sup> .

3 "Constituent" means any State resident or other person  
4 communicating with a member of the Legislature.

5 "Criminal investigatory record" means a record which is not  
6 required by law to be made, maintained or kept on file that is held by a  
7 law enforcement agency which pertains to any criminal investigation  
8 or related civil enforcement proceeding.

9 "Custodian of a government record" or "custodian" means in the  
10 case of a municipality, the municipal clerk and in the case of any other  
11 public agency, the officer officially designated by formal action of that  
12 agency's director or governing body, as the case may be.

13 <sup>2</sup>["Data broker" means a business that knowingly collects and sells  
14 to third parties the personal information of a consumer with whom the  
15 business does not have a direct relationship.]<sup>2</sup>

16 "Government record" or "record" means any paper, written or  
17 printed book, document, drawing, map, plan, photograph, microfilm,  
18 data processed or image processed document, information stored or  
19 maintained electronically or by sound-recording or in a similar device,  
20 or any copy thereof, that has been made, maintained or kept on file in  
21 the course of his or its official business by any officer, commission,  
22 agency or authority of the State or of any political subdivision thereof,  
23 including subordinate boards thereof, or that has been received in the  
24 course of his or its official business by any such officer, commission,  
25 agency, or authority of the State or of any political subdivision thereof,  
26 including subordinate boards thereof. The terms shall not include  
27 inter-agency or intra-agency advisory, consultative, **[or]** <sup>2</sup>or<sup>2</sup>  
28 deliberative <sup>2</sup>**[, or draft]**<sup>2</sup> material <sup>2</sup>**[, including notes generated and**  
29 **used to prepare final reports, documents, or records.]**<sup>2</sup>

30 <sup>2</sup>"Labor organization" means any organization which exists and is  
31 constituted for the purpose, in whole or in part, of collective  
32 bargaining, or of dealing with employers concerning grievances, terms  
33 or conditions of employment, or of other mutual aid or protection in  
34 connection with employment<sup>2</sup>.

35 A government record shall not include the following information  
36 which is deemed to be confidential for the purposes of P.L.1963, c.73  
37 (C.47:1A-1 et seq.) as amended and supplemented:

38 information received by a member of the Legislature from a  
39 constituent or information held by a member of the Legislature  
40 concerning a constituent, including, but not limited to, information in  
41 written form or contained in any e-mail or computer data base, or in  
42 any telephone record whatsoever, unless it is information the  
43 constituent is required by law to transmit;

44 any memorandum, correspondence, notes, report or other  
45 communication prepared by, or for, the specific use of a member of the  
46 Legislature in the course of the member's official duties, except that  
47 this provision shall not apply to an otherwise publicly-accessible

1 report which is required by law to be submitted to the Legislature or its  
2 members;

3 any copy, reproduction or facsimile of any photograph, negative or  
4 print, including instant photographs and videotapes of the body, or any  
5 portion of the body, of a deceased person, taken by or for the medical  
6 examiner at the scene of death or in the course of a post mortem  
7 examination or autopsy made by or caused to be made by the medical  
8 examiner except <sup>2</sup>]:

9 when used in a criminal action or proceeding in this State which  
10 relates to the death of that person,

11 for the use as a court of this State permits, by order after good  
12 cause has been shown and after written notification of the request for  
13 the court order has been served at least five days before the order is  
14 made upon the county prosecutor for the county in which the post  
15 mortem examination or autopsy occurred,

16 for use in the field of forensic pathology or for use in medical or  
17 scientific education or research, or ]

18 for use by a legal next of kin, a legal representative, or an  
19 attending physician of the deceased person, for use as a court of this  
20 State permits, or<sup>2</sup> for use by any law enforcement agency in this State  
21 or any other state or federal law enforcement agency;

22 criminal investigatory records;

23 the portion of any criminal record concerning a person's detection,  
24 apprehension, arrest, detention, trial or disposition for unlawful  
25 manufacturing, distributing, or dispensing, or possessing or having  
26 under control with intent to manufacture, distribute, or dispense,  
27 marijuana or hashish in violation of paragraph (11) of subsection b. of  
28 N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation  
29 of paragraph (12) of subsection b. of that section, or a violation of  
30 either of those paragraphs and a violation of subsection a. of section 1  
31 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of  
32 P.L.1997, c.327 (C.2C:35-7.1) for distributing, dispensing, or  
33 possessing, or having under control with intent to distribute or  
34 dispense, on or within 1,000 feet of any school property, or on or  
35 within 500 feet of the real property comprising a public housing  
36 facility, public park, or public building, or for obtaining, possessing,  
37 using, being under the influence of, or failing to make lawful  
38 disposition of marijuana or hashish in violation of paragraph (3) or (4)  
39 of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-10,  
40 or for a violation of any of those provisions and a violation of  
41 N.J.S.2C:36-2 for using or possessing with intent to use drug  
42 paraphernalia with that marijuana or hashish;

43 victims' records, except that a victim of a crime shall have access  
44 to the victim's own records;

45 any written request by a crime victim for a record to which the  
46 victim is entitled to access as provided in this section, including, but  
47 not limited to, any law enforcement agency report, domestic violence  
48 offense report, and temporary or permanent restraining order;

1 personal firearms records, except for use by any person authorized  
2 by law to have access to these records or for use by any government  
3 agency, including any court or law enforcement agency, for purposes  
4 of the administration of justice;

5 personal identifying information received by the Division of Fish  
6 and Wildlife in the Department of Environmental Protection in  
7 connection with the issuance of any license authorizing hunting with a  
8 firearm<sup>1</sup>. For the purposes of this paragraph, personal identifying  
9 information shall include, but not be limited to, identity, name,  
10 address, social security number, telephone number, fax number,  
11 driver's license number, email address, or social media address of any  
12 applicant or licensee<sup>1</sup>;

13 trade secrets and proprietary commercial or financial information  
14 obtained from any source. For the purposes of this paragraph, trade  
15 secrets shall include <sup>1</sup>[data processing] software, applications, and  
16 code obtained by a public body under a licensing agreement which  
17 prohibits its disclosure;

18 any record within the attorney-client privilege. This paragraph  
19 shall not be construed as exempting from access attorney or consultant  
20 bills or invoices except that such bills or invoices may be redacted to  
21 remove any information protected by the attorney-client privilege;

22 administrative or technical information regarding computer  
23 hardware, tablets, telephones, <sup>2</sup>[and] electronic computing<sup>2</sup> devices,  
24 <sup>2</sup>[or]<sup>2</sup> software <sup>2</sup>[,]<sup>2</sup> applications, and networks <sup>1</sup>[which, if disclosed,  
25 would jeopardize computer security]<sup>2</sup> or devices which operate on or  
26 as a part of a computer network or related technologies within the  
27 same, which shall include system logs, event logs, transaction logs,  
28 tracing logs, or any logs which are reasonably construed to be similar  
29 to the same and generated by the devices or servers covered within this  
30 paragraph, which, if disclosed, could jeopardize computer security<sup>2</sup> ,  
31 or related technologies;

32 emergency or security information or procedures for any buildings  
33 or facility which, if disclosed, would jeopardize security of the  
34 building or facility or persons therein;

35 security measures and surveillance techniques which, if disclosed,  
36 would create a risk to the safety of persons, property, electronic data or  
37 software;

38 security alarm system activity and access reports, including video  
39 footage, for any public building, facility, or grounds unless the request  
40 identifies a specific incident that occurred, <sup>2</sup>or<sup>2</sup> a specific date <sup>2</sup>[,]<sup>2</sup>  
41 and <sup>2</sup>[a]<sup>2</sup> limited time period at a particular public building, facility,  
42 or grounds <sup>2</sup>, and is deemed not to compromise the integrity of the  
43 security system by revealing capabilities and vulnerabilities of the  
44 system<sup>2</sup> ;

45 information which, if disclosed, would give an advantage to  
46 competitors or bidders, including detailed or itemized cost estimates  
47 prior to bid opening;

1 information generated by or on behalf of public employers or  
2 public employees in connection with any sexual harassment complaint  
3 filed with a public employer or with any grievance filed by or against  
4 an individual or in connection with collective negotiations, including  
5 documents and statements of strategy or negotiating position;

6 <sup>2</sup>information related to strategies or negotiating positions that  
7 would unfairly prejudice or impair contract negotiations;<sup>2</sup>

8 information which is a communication between a public agency  
9 and its insurance carrier, administrative service organization or risk  
10 management office;

11 information which is to be kept confidential pursuant to court  
12 order;

13 any copy of form DD-214, NGB-22, or that form, issued by the  
14 United States Government, or any other certificate of honorable  
15 discharge, or copy thereof, from active service or the reserves of a  
16 branch of the Armed Forces of the United States, or from service in the  
17 organized militia of the State, that has been filed by an individual with  
18 a public agency, except that a veteran or the veteran's spouse or  
19 surviving spouse shall have access to the veteran's own records;

20 any copy of an oath of allegiance, oath of office or any affirmation  
21 taken upon assuming the duties of any public office, or that oath or  
22 affirmation, taken by a current or former officer or employee in any  
23 public office or position in this State or in any county or municipality  
24 of this State, including members of the Legislative Branch, Executive  
25 Branch, Judicial Branch, and all law enforcement entities, except that  
26 the full name, title, and oath date of that person contained therein shall  
27 not be deemed confidential;

28 that portion of any document which discloses the social security  
29 number, credit card number, **[unlisted]** debit card number, bank  
30 account information, month and day of birth, <sup>2</sup>any personal<sup>2</sup> email  
31 address <sup>2</sup>required by a public agency for government applications,  
32 services, or programs<sup>2</sup> , any telephone number or driver license  
33 number of any person, or, in accordance with section 2 of P.L.2021,  
34 c.371 (C.47:1B-2), that portion of any document which discloses the  
35 home address, whether a primary or secondary residence, of any  
36 active, formerly active, or retired judicial officer, law enforcement  
37 officer, child protective investigator in the Division of Child Protection  
38 and Permanency, or prosecutor, or, as defined in section 1 of P.L.2021,  
39 c.371 (C.47:1B-1), any immediate family member thereof; except for  
40 use by any government agency, including any court or law  
41 enforcement agency, in carrying out its functions, or any private  
42 person or entity acting on behalf thereof, or any private person or  
43 entity seeking to enforce payment of court-ordered child support;  
44 except with respect to the disclosure of driver information by the New  
45 Jersey Motor Vehicle Commission as permitted by section 2 of  
46 P.L.1997, c.188 (C.39:2-3.4); except with respect to the disclosure of  
47 information included in records and documents maintained by the  
48 Department of the Treasury in connection with the State's business

1 registry programs; and except that a social security number contained  
2 in a record required by law to be made, maintained or kept on file by a  
3 public agency shall be disclosed when access to the document or  
4 disclosure of that information is not otherwise prohibited by State or  
5 federal law, regulation or order or by State statute, resolution of either  
6 or both houses of the Legislature, Executive Order of the Governor,  
7 rule of court or regulation promulgated under the authority of any  
8 statute or executive order of the Governor;

9 that portion of any document that discloses the personal identifying  
10 information of any person provided to a public agency for the sole  
11 purpose of receiving official notifications;

12 a list of persons identifying themselves as being in need of special  
13 assistance in the event of an emergency maintained by a municipality  
14 for public safety purposes pursuant to section 1 of P.L.2017, c.266  
15 (C.40:48-2.67), and their personal identifying information; [and]

16 a list of persons identifying themselves as being in need of special  
17 assistance in the event of an emergency maintained by a county for  
18 public safety purposes pursuant to section 6 of P.L.2011, c.178  
19 (C.App.A:9-43.13), and their personal identifying information;

20 that portion of any document that requires and would disclose  
21 personal identifying information of persons under the age of 18 years,  
22 <sup>2</sup>[including names,]<sup>2</sup> except with respect to the disclosure of driver  
23 information by the New Jersey Motor Vehicle Commission as  
24 permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4) or the  
25 disclosure of driver information to any insurer or insurance support  
26 organization, or a self-insured entity, or its agents, employees, or  
27 contractors, for use in connection with claims investigation activities,  
28 antifraud activities, rating, or underwriting, and except with respect to  
29 the disclosure of voter information on voter and election records  
30 pursuant to section <sup>2</sup>[11] <sup>8</sup> of P.L. , c. (C. ) (pending before  
31 the Legislature as this bill);

32 personal identifying information disclosed on domestic animal  
33 permits, licenses, and registration;

34 structured reference data that helps to sort and identify attributes of  
35 the information it describes, referred to as metadata, or any  
36 extrapolation or compilation thereof <sup>2</sup>, which shall include the SMTP  
37 header properties of emails, except that portion that identifies  
38 authorship, identity of editor, and time of change<sup>2</sup>;

39 New Jersey State Firemen's Association financial relief  
40 applications;

41 owner and maintenance manuals;

42 data classified under the "Health Insurance Portability and  
43 Accountability Act of 1996," Pub.L.104-191;

44 <sup>2</sup>[logs of telephone calls, emails, or texts;]<sup>2</sup> and

45 <sup>2</sup>[electronic or paper calendars for individuals]

46 any indecent or graphic images of a person's intimate parts, as  
47 defined in section 10 of P.L. , c. (C. ) (pending before the  
48 Legislature as this bill), that are captured in a photograph or video

1 recording without the prior written consent of the subject of the  
2 photograph or video footage, as defined in section 10 of P.L. , c.  
3 (C. ) (pending before the Legislature as this bill)<sup>2</sup>.

4 A government record shall not include, with regard to any public  
5 institution of higher education, the following information which is  
6 deemed to be privileged and confidential:

7 pedagogical, scholarly and/or academic research records and/or the  
8 specific details of any research project conducted under the auspices of  
9 a public higher education institution in New Jersey, including, but not  
10 limited to, research, development information, testing procedures, or  
11 information regarding test participants, related to the development or  
12 testing of any pharmaceutical or pharmaceutical delivery system,  
13 except that a custodian may not deny inspection of a government  
14 record or part thereof that gives the name, title, expenditures, source  
15 and amounts of funding and date when the final project summary of  
16 any research will be available;

17 test questions, scoring keys and other examination data pertaining  
18 to the administration of an examination for employment or academic  
19 examination;

20 records of pursuit of charitable contributions or records containing  
21 the identity of a donor of a gift if the donor requires non-disclosure of  
22 the donor's identity as a condition of making the gift provided that the  
23 donor has not received any benefits of or from the institution of higher  
24 education in connection with such gift other than a request for  
25 memorialization or dedication;

26 valuable or rare collections of books or documents obtained by  
27 gift, grant, bequest or devise conditioned upon limited public access;

28 information contained on individual admission applications; and

29 information concerning student records or grievance or  
30 disciplinary proceedings against a student to the extent disclosure  
31 would reveal the identity of the student.

32 <sup>2</sup>Nothing in this section shall be construed to limit the  
33 requirements to provide and make publicly available the  
34 information pursuant to section 5 of P.L.1963, c.150 (C.34:11-  
35 56.29) and section 5 of P.L.1999, c.238 (C.34:11-56.52).<sup>2</sup>

36 "Judicial officer" means any active, formerly active, or retired  
37 federal, state, county, or municipal judge, including a judge of the Tax  
38 Court and any other court of limited jurisdiction established, altered, or  
39 abolished by law, a judge of the Office of Administrative Law, a judge  
40 of the Division of Workers' Compensation, and any other judge  
41 established by law who serves in the executive branch.

42 "Law enforcement agency" means a public agency, or part thereof,  
43 determined by the Attorney General to have law enforcement  
44 responsibilities.

45 "Law enforcement officer" means a person whose public duties  
46 include the power to act as an officer for the detection, apprehension,  
47 arrest, and conviction of offenders against the laws of this State.

48 "Member of the Legislature" means any person elected or selected  
49 to serve in the New Jersey Senate or General Assembly.

1 "Personal firearms record" means any information contained in a  
2 background investigation conducted by the chief of police, the county  
3 prosecutor, or the Superintendent of State Police, of any applicant for a  
4 permit to purchase a handgun, firearms identification card license, or  
5 firearms registration; any application for a permit to purchase a  
6 handgun, firearms identification card license, or firearms registration;  
7 any document reflecting the issuance or denial of a permit to purchase  
8 a handgun, firearms identification card license, or firearms  
9 registration; and any permit to purchase a handgun, firearms  
10 identification card license, or any firearms license, certification,  
11 certificate, form of register, or registration statement. For the purposes  
12 of this paragraph, information contained in a background investigation  
13 shall include, but not be limited to, identity, name, address, social  
14 security number, [phone] telephone number, fax number, driver's  
15 license number, email address, or social media address of any  
16 applicant, licensee, registrant, or permit holder.

17 <sup>2</sup>["Personal identifying information" means information that may  
18 be used, alone or in conjunction with any other information, to identify  
19 a specific individual. For purposes of this act, personal identifying  
20 information shall include, but shall not be limited to, the following  
21 data elements: name, social security number, credit card number, debit  
22 card number, bank account information, month and day of birth, email  
23 address, any telephone number, the street address portion of any  
24 person's primary or secondary home address, or driver license number  
25 of any person.]<sup>2</sup>

26 "Public agency" or "agency" means any of the principal  
27 departments in the Executive Branch of State Government, and any  
28 division, board, bureau, office, commission or other instrumentality  
29 within or created by such department; the Legislature of the State and  
30 any office, board, bureau or commission within or created by the  
31 Legislative Branch; and any independent State authority, commission,  
32 instrumentality or agency. The terms also mean any political  
33 subdivision of the State or combination of political subdivisions, and  
34 any division, board, bureau, office, commission or other  
35 instrumentality within or created by a political subdivision of the State  
36 or combination of political subdivisions, and any independent  
37 authority, commission, instrumentality or agency created by a political  
38 subdivision or combination of political subdivisions.

39 "Victim of a crime" means a person who has suffered personal or  
40 psychological injury or death or incurs loss of or injury to personal or  
41 real property as a result of a crime, or if such a person is deceased or  
42 incapacitated, a member of that person's immediate family.

43 "Victim's record" means an individually identifiable file or  
44 document held by a victims' rights agency which pertains directly to a  
45 victim of a crime except that a victim of a crime shall have access to  
46 the victim's own records.

47 "Victims' rights agency" means a public agency, or part thereof,  
48 the primary responsibility of which is providing services, including,  
49 but not limited to, food, shelter, or clothing, medical, psychiatric,

1 psychological or legal services or referrals, information and referral  
2 services, counseling and support services, or financial services to  
3 victims of crimes, including victims of sexual assault, domestic  
4 violence, violent crime, child endangerment, child abuse or child  
5 neglect, and the Victims of Crime Compensation Board, established  
6 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as the  
7 Victims of Crime Compensation Office pursuant to P.L.2007, c.95  
8 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.

9 <sup>2</sup>As used in this section, “personal identifying information” means  
10 information that may be used, alone or in conjunction with any other  
11 information, to identify a specific individual. Personal identifying  
12 information shall include, but shall not be limited to, the following  
13 data elements: name, social security number, credit card number, debit  
14 card number, bank account information, month and day of birth, any  
15 personal email address required by a public agency for government  
16 applications, services, or programs, personal telephone number, the  
17 street address portion of any person’s primary or secondary home  
18 address, or driver license number of any person. “Personal identifying  
19 information” shall not include any street address, mailing address,  
20 email address, or telephone number of a public agency. “Personal  
21 identifying information” shall not include the email address of a  
22 governmental affairs agent.<sup>2</sup>

23 (cf: P.L.2023, c.113, s.1)

24  
25 <sup>2</sup>**[3.] 2.**<sup>2</sup> Section 6 of P.L.2001, c.404 (C.47:1A-5) is amended to  
26 read as follows:

27 6. a. The custodian of a government record shall permit the record  
28 to be inspected, examined, and copied by any person during regular  
29 business hours; or in the case of a municipality having a population of  
30 5,000 or fewer according to the most recent federal decennial census, a  
31 board of education having a total district enrollment of 500 or fewer,  
32 or a public authority having less than \$10 million in assets, during not  
33 less than six regular business hours over not less than three business  
34 days per week or the entity's regularly-scheduled business hours,  
35 whichever is less; unless a government record is exempt from public  
36 access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and  
37 supplemented; any other statute; resolution of either or both houses of  
38 the Legislature; regulation promulgated under the authority of any  
39 statute or Executive Order of the Governor; Executive Order of the  
40 Governor; Rules of Court; any federal law; federal regulation; or  
41 federal order. Prior to allowing access to any government record, the  
42 custodian thereof shall redact from that record any information which  
43 discloses the social security number, credit card number, **[unlisted]**  
44 <sup>2</sup>personal<sup>2</sup> telephone number, or driver license number of any person,  
45 or, in accordance with section 2 of P.L.2021, c.371 (C.47:1B-2), the  
46 home address, whether a primary or secondary residence, of any  
47 active, formerly active, or retired judicial officer, prosecutor, law  
48 enforcement officer, or child protective investigator in the Division of

1 Child Protection and Permanency, or, as defined in section 1 of  
2 P.L.2021, c.371 (C.47:1B-1), any immediate family member thereof;  
3 except for use by any government agency, including any court or law  
4 enforcement agency, in carrying out its functions, or any private  
5 person or entity acting on behalf thereof, or any private person or  
6 entity seeking to enforce payment of court-ordered child support;  
7 except with respect to the disclosure of driver information by the New  
8 Jersey Motor Vehicle Commission as permitted by section 2 of  
9 P.L.1997, c.188 (C.39:2-3.4); and except that a social security number  
10 contained in a record required by law to be made, maintained or kept  
11 on file by a public agency shall be disclosed when access to the  
12 document or disclosure of that information is not otherwise prohibited  
13 by State or federal law, regulation or order or by State statute,  
14 resolution of either or both houses of the Legislature, Executive Order  
15 of the Governor, rule of court or regulation promulgated under the  
16 authority of any statute or executive order of the Governor. <sup>2</sup>【Prior to  
17 allowing access to any government record, the custodian shall redact  
18 from that record any information which discloses, or which might  
19 reasonably lead to disclosure of the telephone number, email address,  
20 or any medical, financial, or personal information of a member of the  
21 public when the disclosure thereof would violate the citizen’s  
22 reasonable expectation of privacy or when the public agency has a  
23 reason to believe that disclosure of such personal information may  
24 result in harassment, unwanted solicitation, identity theft, or  
25 opportunities for other criminal acts.】<sup>2</sup> Except where an agency can  
26 demonstrate an emergent need, a regulation that limits access to  
27 government records shall not be retroactive in effect or applied to deny  
28 a request for access to a government record that is pending before the  
29 agency, the council or a court at the time of the adoption of the  
30 regulation.

31 b. (1) A copy or copies of a government record may be purchased  
32 by any person upon payment of the fee prescribed by law or  
33 regulation.

34 Except as otherwise provided by law or regulation and except as  
35 provided in paragraph (2) of this subsection, the fee assessed for the  
36 duplication of a government record embodied in the form of printed  
37 matter shall be \$0.05 per letter size page or smaller, and \$0.07 per  
38 legal size page or larger. **【**If a public agency can demonstrate that its  
39 actual costs for duplication of a government record exceed the  
40 foregoing rates, the public agency shall be permitted to charge the  
41 actual cost of duplicating the record. The actual cost of duplicating the  
42 record, upon which all copy fees are based, shall be the cost of  
43 materials and supplies used to make a copy of the record, but shall not  
44 include the cost of labor or other overhead expenses associated with  
45 making the copy except as provided for in subsection c. of this  
46 section.**】** Access to electronic records and non-printed materials shall  
47 be provided free of charge, but the public agency may charge for the  
48 actual costs of any needed supplies such as computer discs. No fee

1 shall be charged if the request is completed by directing the requestor  
2 to the requested government record that is available on the public  
3 agency's website or the website of another public agency.

4 (2) No fee shall be charged to a victim of a crime for a copy or  
5 copies of a record to which the crime victim is entitled to access, as  
6 provided in section 1 of P.L.1995, c.23 (C.47:1A-1.1).

7 c. Whenever the nature, format, manner of collation, or volume of  
8 a government record embodied in the form of printed matter to be  
9 inspected, examined, or copied pursuant to this section is such that the  
10 record cannot be reproduced by ordinary document copying equipment  
11 in ordinary business size or involves an extraordinary expenditure of  
12 time and effort to accommodate the request, the public agency may  
13 charge, in addition to the actual cost of duplicating the record, a  
14 special service charge that **[shall be reasonable and]** shall be based  
15 upon the actual direct cost of providing the copy or copies **;** provided,  
16 however, that in the case of a municipality, rates for the duplication of  
17 particular records when the actual cost of copying exceeds the  
18 foregoing rates shall be established in advance by ordinance**], and**  
19 such special service charge shall be <sup>2</sup>[presumed to be]<sup>2</sup> reasonable.  
20 <sup>2</sup>The custodian shall provide the requestor with an explanation for and  
21 an itemized list of the fees or charges<sup>2</sup>.

22 The requestor shall have the opportunity to review and object to  
23 **[the] any fee or charge** prior to it being incurred. <sup>2</sup>There shall be a  
24 rebuttable presumption that the fees or charges presented by the  
25 custodian are reasonable. If the requestor objects to the fees or  
26 charges, the burden of proof shall be on the requestor to demonstrate  
27 that the fees or charges are unreasonable.<sup>2</sup>

28 d. A custodian shall permit access to a government record and  
29 provide a copy thereof in the medium or format requested if the public  
30 agency maintains the record in that medium or format. If the public  
31 agency does not maintain the record in the medium or format  
32 requested, the custodian **[shall] <sup>2</sup>[, at the custodian's discretion, may]**  
33 shall<sup>2</sup> <sup>2</sup>[either]<sup>2</sup> convert the record to the medium or format requested  
34 <sup>2</sup>[or provide a copy in some other meaningful medium or format.]<sup>2</sup>  
35 **[If a request is for a record: (1) in a medium not routinely used by the**  
36 **agency; (2) not routinely developed or maintained by an agency; or (3)**  
37 **requiring a substantial amount of manipulation or programming of**  
38 **information technology, the agency may charge, in addition to the**  
39 **actual cost of duplication, a special charge that shall be reasonable and**  
40 **shall be based on the cost for any extensive use of information**  
41 **technology, or for the labor cost of personnel providing the service,**  
42 **that is actually incurred by the agency or attributable to the agency for**  
43 **the programming, clerical, and supervisory assistance required, or**  
44 **both.] <sup>2</sup>, if the medium or format is available to the public agency and**  
45 **does not require a substantial amount of manipulation or programming**  
46 **of information technology, or the services of a third party vendor. If**  
47 **the public agency converts the record to the medium or format**  
48 **requested, the agency may charge, in addition to the actual cost of**

1 duplication, a special service fee that shall be reasonable and shall be  
2 based on the cost for any extensive use of information technology, or  
3 for the labor cost of personnel providing the service, that is actually  
4 incurred by the agency or attributable to the agency for the  
5 programming, clerical, and supervisory assistance required, or both.<sup>2</sup>  
6 If the public agency does not maintain the record in the electronic  
7 medium or format requested,<sup>2</sup> and the medium or format is not  
8 available to the public agency without a substantial amount of  
9 manipulation or programming of information technology,<sup>2</sup> the  
10 custodian shall be under no obligation to convert the record to the  
11 electronic medium or format requested but shall, at a minimum,  
12 provide a copy in the <sup>2</sup>electronic<sup>2</sup> format maintained by the public  
13 agency.

14 e. Immediate access ordinarily shall be granted to budgets, bills,  
15 vouchers, contracts, including collective negotiations agreements and  
16 individual employment contracts, and public employee salary and  
17 overtime information. Immediate access to government records shall  
18 not be required to be granted for documents over <sup>2</sup>[12] 24<sup>2</sup> months  
19 old.

20 Government records shall be made available to the public on a  
21 publicly available website to the extent feasible. A public agency may  
22 enter into shared services agreements for providing certain government  
23 records electronically.

24 If the government record <sup>2</sup>in a complete and unabridged form<sup>2</sup> is  
25 readily available on a public agency's website, the custodian may  
26 require the requestor to obtain the record from the website, which shall  
27 contain a search bar feature on its home page. The custodian shall  
28 provide the requestor with directions to assist in finding the record on  
29 the website, including providing the website URL address and the  
30 location on the website of the search bar, menu button, tab, link,  
31 landing page or equivalent, which contains the requested record.  
32 <sup>1</sup>[The request shall be deemed fulfilled upon notification by the  
33 custodian to the requestor of the availability and location on the  
34 website of the requested information.] If the requestor does not  
35 respond to the custodian within seven <sup>2</sup>business<sup>2</sup> days of the custodian  
36 providing information about a record on the public agency's website,  
37 the request shall be deemed fulfilled <sup>2</sup>unless the version of the  
38 government record on the public agency's website fails to contain non-  
39 protected information contained in the original record, in which case  
40 the custodian shall produce the original version of the record subject to  
41 any redactions required by law<sup>2</sup>. If, after the custodian has provided  
42 instructions on how to find a record on a public agency's website, the  
43 requestor is unable to find the record upon making a good faith effort  
44 to locate the record on the website, the requestor shall notify the  
45 custodian within seven <sup>2</sup>business<sup>2</sup> days of the custodian providing the  
46 information. Upon receiving such a request for assistance from a  
47 requestor, the custodian shall make a reasonable attempt to assist the  
48 requestor in finding the record on the website within seven <sup>2</sup>business<sup>2</sup>

1 days of the requestor notifying the custodian.<sup>1</sup> <sup>2</sup>If the requestor is still  
2 unable to locate the record and requests a physical copy, the custodian  
3 shall provide the requestor with a physical copy of the record, for a fee  
4 not exceeding two times the cost of the production of the document.  
5 The custodian shall provide the requestor with the physical copy of the  
6 record within seven business days of the request for a physical copy.<sup>2</sup>

7 f. The custodian of a public agency shall adopt <sup>2</sup>**[a]** the<sup>2</sup> form  
8 <sup>2</sup>established by the Government Records Council pursuant to  
9 subsection b. of section 8 of P.L.2001, c.404 (C.47:1A-7),<sup>2</sup> for the use  
10 of any person who requests access to a government record held or  
11 controlled by the public agency. The form shall provide space for the  
12 name, address, email address and **[phone]** telephone number of the  
13 requestor and a brief description of the government record sought. A  
14 request shall be submitted by a requestor in the form adopted by the  
15 custodian and the custodian may deny a request that is <sup>2</sup>**[not submitted**  
16 **in the form adopted by the custodian]** incomplete, except that a  
17 requestor indicating the request is being submitted anonymously shall  
18 not be grounds for denial. A completed form adopted by the  
19 custodian, a letter, or an email from a requestor including all of the  
20 information required on the adopted form shall suffice in place of a  
21 completed form as a valid government record request. If the letter or  
22 email from a requestor includes substantially more information than  
23 required on the adopted form and requires more than reasonable effort  
24 to clarify the information, the custodian may deny the request. If a  
25 letter or an email from a requestor does not include all of the  
26 information required on the adopted form, the custodian may deny the  
27 record request<sup>2</sup> . A request may be submitted anonymously provided,  
28 however, that anonymous requestors shall not be permitted to institute  
29 proceedings pursuant to section 7 of P.L.2001, c.404 (C.47:1A-6). <sup>2</sup>A  
30 request that is submitted anonymously shall not be considered  
31 incomplete.<sup>2</sup>

32 The form also shall include space for a requestor to certify whether  
33 the government record will be used by that requestor or another person  
34 for a commercial purpose, and the requestor shall be required to  
35 provide this information for the request to be fulfilled.

36 <sup>2</sup>**[All requests by a data broker or a requestor who is making a**  
37 request on behalf of and for the use of a data broker shall be denied.  
38 The form also shall include space for a requestor to certify that the  
39 requestor is not a data broker or is not making the request on behalf of  
40 or for the use of a data broker, and the requestor shall be required to  
41 provide this information for the request to be fulfilled.

42 Data obtained through a records request shall not be sold.<sup>2</sup>

43 The form shall include space for the custodian to indicate which  
44 record will be made available, when the record will be available, and  
45 the fees to be charged. The form shall also include the following: (1)  
46 specific directions and procedures for requesting a record; (2) a  
47 statement as to whether prepayment of fees or a deposit is required; (3)  
48 the time period within which the public agency is required by

1 P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented, to  
2 make the record available; (4) a statement of the requestor's right to  
3 challenge a decision by the public agency to deny access and the  
4 procedure for filing an appeal; (5) space for the custodian to list  
5 reasons if a request is denied in whole or in part; (6) space for the  
6 requestor to sign and date the form; (7) space for the custodian to sign  
7 and date the form if the request is fulfilled or denied. The custodian  
8 may require a deposit against costs for reproducing documents sought  
9 through **an anonymous** a request whenever the custodian anticipates  
10 that the information thus requested will cost in excess of \$5 to  
11 reproduce.

12 Custodians <sup>2</sup>who have adopted electronic government record  
13 request forms<sup>2</sup> shall provide directions on how to submit requests for  
14 government records, including any required forms, on the public  
15 agency's website.

16 Custodians shall be permitted to provide an electronic response to  
17 any electronic records request if government records are available  
18 electronically.

19 g. A request for access to a government record shall be in writing  
20 and hand-delivered, mailed, transmitted electronically, or otherwise  
21 conveyed to the appropriate custodian. A public agency may make  
22 available to the public on its website an online form, portal, or  
23 software for transmitting requests electronically. <sup>2</sup>The form  
24 established by the Government Records Council, pursuant to  
25 subsection b. of section 8 of P.L.2001, c.404 (C.47:1A-7), may be  
26 submitted electronically or by fax. Each submission of a government  
27 record request form or an email record request shall be made to the  
28 custodian of not more than one public agency. Submission of repeated  
29 requests to multiple custodians in the same public agency for the same  
30 record, while an identical or substantially similar request is pending in  
31 the agency, shall permit the custodian to deny the request. <sup>2</sup>

32 A custodian shall promptly comply with a request to inspect,  
33 examine, copy, or provide a copy of a government record. If the  
34 custodian is unable to comply with a request for access, the custodian  
35 shall indicate the specific basis therefor on the request form and  
36 promptly return it to the requestor. The custodian shall sign and date  
37 the form and provide the requestor with a copy thereof. If the  
38 custodian of a government record asserts that part of a particular  
39 record is exempt from public access pursuant to P.L.1963, c.73  
40 (C.47:1A-1 et seq.) as amended and supplemented, the custodian shall  
41 delete or excise from a copy of the record that portion which the  
42 custodian asserts is exempt from access and shall promptly permit  
43 access to the remainder of the record. **【If the government record**  
44 **requested is temporarily unavailable because it is in use or in storage,**  
45 **the custodian shall so advise the requestor and shall make**  
46 **arrangements to promptly make available a copy of the record.】** If a  
47 request for access to a government record would substantially disrupt  
48 agency operations, the custodian may deny access to the record after

1 <sup>2</sup>informing the requestor of the potential disruption to agency  
2 operations and<sup>2</sup> attempting to reach a reasonable solution with the  
3 requestor that accommodates the interests of the requestor and the  
4 agency.

5 A party to a legal proceeding may not request a government record  
6 if the record sought is the subject of a court order <sup>2</sup>[in the legal  
7 proceeding or if compliance would otherwise be unreasonable,  
8 oppressive, or duplicative of already pending discovery request made  
9 in that legal proceeding] including a pending discovery request<sup>2</sup> , and  
10 a custodian shall not be required to complete such a request. The  
11 requestor shall be required to certify whether the government record is  
12 being sought in connection with a legal proceeding and identify the  
13 proceeding for the request to be fulfilled. For purposes of this  
14 provision, a party to a legal proceeding shall include a party <sup>2</sup>[in  
15 interest] subject to a court order<sup>2</sup> , any attorney representing that  
16 party, and any person acting as an agent for or on behalf of that party.  
17 <sup>2</sup>Nothing in this paragraph shall bar a request for a government record  
18 filed by a labor organization or by a contractor signatory to a collective  
19 bargaining agreement seeking information material to the enforcement  
20 of State or federal statutes or regulations regarding but not limited to  
21 wage and hour protections, workplace safety, or public procurement  
22 and public bidding, including, but not limited to, requests for certified  
23 payrolls or information about all bids submitted in response to a public  
24 procurement process subsequent to the deadline for the submission of  
25 all bids for that solicitation, when the request by the labor organization  
26 or contractor signatory is not sought in connection with or in  
27 furtherance of discovery requests in a court proceeding.<sup>2</sup>

28 A custodian shall not be required to complete a request including  
29 for, but not limited to, mail, email, text messages, correspondence, or  
30 social media postings and messages, if the request does not identify  
31 <sup>2</sup>a <sup>2</sup>specific <sup>2</sup>[individuals or] job title or<sup>2</sup> accounts to be searched <sup>2</sup>, a  
32 specific subject matter,<sup>2</sup> and is not confined to a <sup>2</sup>[discrete and  
33 limited] reasonable<sup>2</sup> time period <sup>2</sup>[and a specific subject matter]<sup>2</sup> , or  
34 if the custodian determines that the request would require research and  
35 the collection of information from the contents of government records  
36 and the creation of new government records setting forth that research  
37 and information. <sup>2</sup>It shall be sufficient for a requestor to identify  
38 specific individuals by the individual's job title and position.<sup>2</sup>

39 h. Any officer or employee of a public agency who receives a  
40 request for access to a government record shall forward the request to  
41 the custodian of the record or direct the requestor to the custodian of  
42 the record. The request shall not be considered submitted until it is  
43 received by the custodian of records.

44 i. (1) Unless a shorter time period is otherwise provided by  
45 statute, regulation, or executive order, a custodian of a government  
46 record shall grant access to a government record or deny a request for  
47 access to a government record as soon as possible, but not later than  
48 seven business days after receiving the request, or 14 business days if

1 the request is for a commercial purpose or if the records have to be  
2 reviewed by the public agency for the purpose of the agency's  
3 compliance with P.L.2021, c.371 (C.47:1B-1 et seq.), but the custodian  
4 shall notify the requestor of the additional response time within seven  
5 business days, provided that the record is currently available and not in  
6 storage or archived. The response time periods of seven or 14  
7 business days, as established in this subsection, shall be an additional  
8 seven business days longer if the public agency is a fire district which  
9 employs one or fewer full-time employees who serve as custodians.  
10 <sup>2</sup>If a commercial requestor would like to receive the record within  
11 seven business days, as established in this subsection, the custodian  
12 shall provide the requestor with a copy of the record and may charge a  
13 special service fee not exceeding two times the cost of the production  
14 of the record.<sup>2</sup>

15 In the event a records custodian is unable to fulfill a records  
16 request due to unforeseen circumstances or circumstances that  
17 otherwise reasonably necessitate additional time to fulfill the records  
18 request, the custodian shall be entitled to a reasonable extension of any  
19 response deadline and shall notify the requestor of the time extension  
20 within seven business days after receiving the request.

21 In the event a custodian fails to respond within seven business days  
22 or 14 business days, as appropriate, after receiving a request, the  
23 failure to respond shall be deemed a denial of the request, unless the  
24 requestor has elected not to accurately identify themselves or to  
25 provide [a name,] an accurate address, email address, or telephone  
26 number [, or other means of contacting the requestor]. If the  
27 requestor has elected not to accurately identify themselves or to  
28 provide [a name,] an accurate address, email address, or telephone  
29 number, [or other means of contacting the requestor,] the custodian  
30 shall not be required to respond until the requestor [reappears before]  
31 contacts the custodian seeking a response to the original request.

32 If the government record is in storage or archived, the requestor  
33 shall be so advised within seven or 14 business days, as appropriate,  
34 after the custodian receives the request. The requestor shall be advised  
35 by the custodian when the record can be made available, which shall  
36 be no more than 21 business days from the date the requestor is so  
37 advised. If the record is not made available by that time, access shall  
38 be deemed denied.

39 A public agency shall not be considered to be in possession of a  
40 public record that is created <sup>2</sup>[or] <sup>2</sup> maintained <sup>2</sup>, or received<sup>2</sup> by  
41 another public agency and made available to the public agency either  
42 by remote access to a computer network or by distribution as a  
43 courtesy copy <sup>2</sup>, unless the agency that created, maintained, or  
44 received the record resides within the judicial branch of the State  
45 Government<sup>2</sup>. A records custodian of a public agency that receives a  
46 request for <sup>2</sup>[such]<sup>2</sup> a record <sup>2</sup>created, maintained, or received by  
47 another public agency<sup>2</sup>, shall not be obligated to provide the record to  
48 the requestor <sup>2</sup>[and] <sup>2</sup>. In the event the custodian does not provide the

1 record, the custodian<sup>2</sup> shall direct the requestor within seven business  
2 days to the public agency that, to the best of their knowledge, created  
3 <sup>2</sup>[or],<sup>2</sup> maintains <sup>2</sup>, or received<sup>2</sup> the requested record, at which time  
4 the request shall be considered completed.

5 The custodian shall not be required to complete an identical  
6 request for access to a government record from the same requestor if  
7 the information has not changed. <sup>2</sup>Nothing in this section shall prevent  
8 a requestor from filing periodic requests regarding regularly updated  
9 public records, including, but not limited to, certified payrolls, permits,  
10 and licensing applications.<sup>2</sup>

11 A requestor shall have 14 business days to retrieve the government  
12 records following notice from the custodian that the request has been  
13 completed and the records are available.

14 (2) During a period declared pursuant to the laws of this State as a  
15 state of emergency, public health emergency, or state of local disaster  
16 emergency, the deadlines by which to respond to a request for, or grant  
17 or deny access to, a government record under paragraph (1) of this  
18 subsection or subsection e. of this section shall not apply, provided,  
19 however, that the custodian of a government record shall make a  
20 reasonable effort, as the circumstances permit, to respond to a request  
21 for access to a government record within seven business days or 14  
22 business days, as appropriate, or as soon as possible thereafter.

23 j. A custodian shall **[**post prominently in public view in the part  
24 or parts of the office or offices of the custodian that are open to or  
25 frequented by the public a statement that sets forth in clear, concise  
26 and specific terms the**]** include information on the public agency's  
27 website and public records request form regarding a requestor's right  
28 to appeal a denial of, or failure to provide, access to a government  
29 record **[**by any person for inspection, examination, or copying or for  
30 purchase of copies thereof**]** and the procedure by which an appeal may  
31 be filed, which shall include the website address and toll-free  
32 information line phone number of the Government Records Council.

33 k. The files maintained by the Office of the Public Defender that  
34 relate to the handling of any case shall be considered confidential and  
35 shall not be open to inspection by any person unless authorized by law,  
36 court order, or the State Public Defender.

37 (cf: P.L.2023, c.113, s.2)

38

39 <sup>2</sup>**[4.] 3.**<sup>2</sup> Section 7 of P.L.2001, c.404 (C.47:1A-6) is amended to  
40 read as follows:

41 7. A person who is denied access to a government record by the  
42 custodian of the record, at the option of the requestor who is accurately  
43 identified by name, may, within 45 days of the date of denial:

44 institute a proceeding to challenge the custodian's decision by  
45 filing an action in Superior Court which shall be heard in the vicinage  
46 where it is filed by a Superior Court Judge who has been designated to  
47 hear such cases because of that judge's knowledge and expertise in  
48 matters relating to access to government records; or

1 in lieu of filing an action in Superior Court, file a complaint with  
2 the Government Records Council established pursuant to section 8 of  
3 P.L.2001, c.404 (C.47:1A-7).

4 The right to institute any proceeding under this section shall be  
5 solely that of the requestor. Any such proceeding shall proceed in a  
6 summary or expedited manner. The public agency shall have the  
7 burden of proving that the denial of access is authorized by law. If it is  
8 determined that access has been improperly denied, the court or  
9 **[agency head]** Government Records Council shall order that access be  
10 allowed. A requestor who prevails in any proceeding **[shall]** may be  
11 entitled to a reasonable attorney's fee. <sup>2</sup>[In determining whether to  
12 award attorney's fees, the court or the Government Records Council  
13 may consider whether the public agency is found to have knowingly  
14 and willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.), or to have  
15 unreasonably denied access.] While the court or Government Records  
16 Council may award a reasonable attorney's fee to a prevailing party in  
17 any proceeding, if the public agency has been determined to have  
18 unreasonably denied access, acted in bad faith, or knowingly and  
19 willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.), then the court or  
20 Government Records Council shall award a reasonable attorney's fee.<sup>2</sup>

21 If the records sought are produced by the public agency within  
22 seven business days of service of an action in Superior Court or a  
23 complaint before the Government Records Council, <sup>1</sup>upon notification  
24 to the Superior Court or the Government Records Council, <sup>1</sup> the matter  
25 shall be dismissed without prejudice and the requestor may be entitled  
26 to a reasonable attorney's fee if the custodian knew or should have  
27 known that the denial of access violated P.L.1963, c.73 (C.47:1A-1 et  
28 seq.).

29 (cf: P.L.2001, c.404, s.7)

30  
31 <sup>2</sup>**[5.]** <sup>4.</sup><sup>2</sup> Section 8 of P.L.2001, c.404 (C.47:1A-7) is amended to  
32 read as follows:

33 8. a. (1) There is established in the Department of Community  
34 Affairs a Government Records Council. The council shall consist of  
35 the Commissioner of Community Affairs or the commissioner's  
36 designee, **[the Commissioner of Education or the commissioner's**  
37 designee, and three public members appointed by the Governor, with  
38 the advice and consent of the Senate, not more than two of whom shall  
39 be of the same political party. The three public members shall serve  
40 during the term of the Governor making the appointment and until the  
41 appointment of a successor] who shall serve as Chair, and eight  
42 public members appointed as follows: four appointed by the Governor  
43 with the advice and consent of the Senate <sup>1</sup>, no more than two of  
44 whom shall be members of the same political party<sup>1</sup> ; two directly  
45 appointed by the Governor from persons recommended by the  
46 President of the Senate <sup>1</sup>, no more than one of whom shall be a  
47 member of the same political party<sup>1</sup> ; and two directly appointed by

1 the Governor from persons recommended by the Speaker of the  
2 General Assembly <sup>1</sup>, no more than one of whom shall be a member of  
3 the same political party <sup>1</sup>. Each public member shall serve for a term  
4 of five years and until a successor is appointed and qualified.

5 (2) Notwithstanding <sup>1</sup>any provision of subsection a. (1) of this  
6 section <sup>1</sup>the provisions of paragraph (1) of this subsection <sup>1</sup>, or any  
7 other law, rule, or regulation to the contrary, within 90 days following  
8 the enactment date of P.L. , c. (pending before the Legislature as  
9 this bill), the Governor shall directly appoint eight public members to  
10 the council, each of whom shall serve for a term of three years and  
11 until a successor is appointed and qualified, as follows: two from  
12 persons recommended by the President of the Senate, <sup>1</sup>no more than  
13 one of whom shall be a member of the same political party; <sup>1</sup>two from  
14 persons recommended by the Speaker of the General Assembly, <sup>1</sup>no  
15 more than one of whom shall be a member of the same political party; <sup>1</sup>  
16 and four appointed at the sole discretion of the Governor <sup>1</sup>, no more  
17 than two of whom shall be members of the same political party <sup>1</sup>. The  
18 terms of office of the members of the council serving on the date of  
19 enactment of P.L. , c. <sup>2</sup> <sup>2</sup> (pending before the Legislature as this  
20 bill), shall expire upon the Governor's direct appointment of the new  
21 members pursuant to this subsection.

22 (3) A public member shall not hold any other State or local elected  
23 office <sup>1</sup>while serving as a member of  
24 the council. A public member shall <sup>1</sup>not receive a salary for service  
25 on the council but shall be reimbursed for reasonable and necessary  
26 expenses associated with serving on the council and may receive such  
27 per diem payment as may be provided in the annual appropriations  
28 act <sup>1</sup>receive a salary equivalent to that provided by law for a public  
29 member of the Local Finance Board of the Division of Local  
30 Government Services in the Department of Community Affairs. A  
31 member may be removed by the Governor for cause. Vacancies  
32 among the public members shall be filled <sup>1</sup>in the same manner in  
33 which the original appointment was made. The members of the  
34 council shall choose one of the public members to serve as the  
35 council's chair. <sup>1</sup>by appointment by the Governor, according to the  
36 provisions of subsection a. of this section, and for the remainder of the  
37 unexpired term. The council may employ an executive director and  
38 such professional and clerical staff as it deems necessary and may call  
39 upon the Department of Community Affairs for such assistance as it  
40 deems necessary and may be available to it.

41 b. The Government Records Council shall:  
42 establish an informal mediation program to facilitate the resolution  
43 of disputes regarding access to government records;  
44 receive, hear, review and adjudicate a complaint filed by any  
45 person concerning a denial of access to a government record by a  
46 records custodian;

1 issue advisory opinions, on its own initiative, as to whether a  
2 particular type of record is a government record which is accessible to  
3 the public;

4 prepare guidelines and an informational pamphlet for use by  
5 records custodians in complying with the law governing access to  
6 public records;

7 prepare an informational pamphlet explaining the public's right of  
8 access to government records and the methods for resolving disputes  
9 regarding access, which records custodians shall make available to  
10 persons requesting access to a government record;

11 prepare lists for use by records custodians of the types of records in  
12 the possession of public agencies which are government records;

13 make training opportunities available for records custodians and  
14 other public officers and employees which explain the law governing  
15 access to public records;

16 <sup>2</sup>promulgate rules and regulations to establish a uniform  
17 government record request form for all government record requests  
18 permitted for use by any public agency, that includes the required form  
19 components as set forth in subsection f. of section 6 of P.L.2001, c.404  
20 (C.47:1A-5). The form shall include certification that a party to a legal  
21 proceeding may not request a government record if the record sought  
22 is the subject of a court order or a pending discovery request. The  
23 council shall make the form available electronically and in print and  
24 shall make the form available to incarcerated individuals;<sup>2</sup> and

25 operate an informational website and a toll-free helpline staffed by  
26 knowledgeable employees of the council during regular business hours  
27 which shall enable any person, including records custodians, to call for  
28 information regarding the law governing access to public records and  
29 allow any person to request mediation or to file a complaint with the  
30 council when access has been denied【;】 .

31 In implementing the provisions of 【subsections d. and e. of】 this  
32 section, the council shall: act, to the maximum extent possible, at the  
33 convenience of the parties; utilize video conferencing,  
34 teleconferencing, faxing of documents, e-mail and similar forms of  
35 modern communication; conduct virtual meetings and hearings, when  
36 practical and at the discretion of the council; and when in-person  
37 meetings are necessary, send representatives to meet with the parties at  
38 a location convenient to the parties.

39 The council shall periodically review the information and format  
40 of its website and make such adjustments as shall be deemed necessary  
41 to ensure that the information is clearly presented, accessible, and  
42 useful for the general public. The council shall conduct such an initial  
43 review within six months following the effective date of P.L. , c.  
44 (pending before the Legislature as this bill).

45 c. At the request of the council, a public agency shall produce  
46 documents and ensure the attendance of witnesses with respect to the  
47 council's investigation of any complaint or the holding of any hearing.

1 d. Upon receipt of a written complaint signed by any person  
2 alleging that a custodian of a government record has improperly  
3 denied that person access to a government record, the council shall  
4 offer the parties the opportunity to resolve the dispute through  
5 mediation. Mediation shall enable a person who has been denied  
6 access to a government record and the public agency that employs the  
7 records custodian who denied or failed to provide access thereto to  
8 attempt to mediate the dispute through a process whereby a neutral  
9 mediator, who shall be trained in mediation selected by the council,  
10 acts to encourage and facilitate the resolution of the dispute.  
11 Mediation shall be an informal, nonadversarial process having the  
12 objective of helping the parties reach a mutually acceptable, voluntary  
13 agreement. The mediator shall assist the parties in identifying issues,  
14 foster joint problem solving, and explore settlement alternatives.

15 e. If any party declines mediation or if mediation fails to resolve  
16 the matter to the satisfaction of all parties, the council shall initiate an  
17 investigation concerning the facts and circumstances set forth in the  
18 complaint. The council shall make a determination as to whether the  
19 complaint is within its jurisdiction or frivolous or without any  
20 reasonable factual basis. The council may assign staff attorneys to  
21 conduct the investigation, present findings, and make  
22 recommendations to the council. If the council shall conclude that the  
23 complaint is outside its jurisdiction, frivolous, or without factual basis,  
24 it shall reduce that conclusion to writing and transmit a copy thereof to  
25 the complainant and to the public agency that employs the records  
26 custodian against whom the complaint was filed. Otherwise, the  
27 council shall notify the public agency that employs the records  
28 custodian against whom the complaint was filed of the nature of the  
29 complaint and the facts and circumstances set forth therein.

30 The public agency that employs the records custodian shall have  
31 the opportunity to present the board with any statement or information  
32 concerning the complaint which the **【custodian】** agency wishes. If the  
33 council is able to make a determination as to a record's accessibility  
34 based upon the complaint and the **【custodian's】** agency's response  
35 thereto, it shall reduce that conclusion to writing and transmit a copy  
36 thereof to the complainant and to the public agency that employs the  
37 records custodian against whom the complaint was filed. If the  
38 council is unable to make a determination as to a record's accessibility  
39 based upon the complaint and the **【custodian's】** agency's response  
40 thereto, the council shall conduct a hearing on the matter in conformity  
41 with the rules and regulations provided for hearings by a State agency  
42 in contested cases under the "Administrative Procedure Act,"  
43 P.L.1968, c.410 (C.52:14B-1 et seq.), insofar as they may be  
44 applicable and practicable.

45 The council shall, by a majority vote of its members, render a  
46 decision as to whether the record which is the subject of the complaint  
47 is a government record which must be made available for public  
48 access pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and  
49 supplemented. If the council determines, by a majority vote of its

1 members, that a custodian **[has]** is found to have knowingly and  
2 willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and  
3 supplemented, and **[is found]** to have unreasonably denied access  
4 under the totality of the circumstances, the council may impose the  
5 penalties provided for in section 12 of P.L.2001, c.404 (C.47:1A-11)  
6 on the public agency that employs the custodian.

7 A decision of the council may be appealed to the Appellate  
8 Division of the Superior Court. Such appeals shall be filed within  
9 <sup>2</sup>**[30]** 45<sup>2</sup> days from the date the council renders a decision. A  
10 decision of the council shall not have value as a precedent for any case  
11 initiated in Superior Court pursuant to section 7 of P.L.2001, c.404  
12 (C.47:1A-6). All proceedings of the council pursuant to this  
13 subsection shall be conducted as expeditiously as possible.

14 Beginning 18 months following the effective date of P.L. , c.  
15 (pending before the Legislature as this bill), the council shall  
16 adjudicate all complaints that come before it within 90 days of the  
17 complaint's filing, with the ability to extend for <sup>2</sup>**[30]** 45<sup>2</sup> days for  
18 good cause, exclusive of any time period during which the parties are  
19 engaged in a mediation process pursuant to this section. The council  
20 shall make such organizational adjustments and modify its procedures  
21 as it deems necessary to ensure that complaints are adjudicated in such  
22 a timeframe.

23 f. The council shall not charge any party a fee in regard to actions  
24 filed with the council. The council shall be subject to the provisions of  
25 the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6), except  
26 that the council may go into closed session during that portion of any  
27 proceeding during which the contents of a contested record would be  
28 disclosed. **[A requestor who prevails in any proceeding shall be**  
29 **entitled to a reasonable attorney's fee.] <sup>2</sup>A requestor who prevails in**  
30 any proceeding may be entitled to a reasonable attorney's fee as  
31 provided for in section 6 of P.L.2001, c.404 (C.47:1A-6).<sup>2</sup>

32 g. The council shall not have jurisdiction over the Judicial or  
33 Legislative Branches of State Government or any agency, officer, or  
34 employee of those branches.

35 <sup>2</sup>**h.** The Superior Court shall provide the Government Records  
36 Council a list of all actions which have been brought before the courts  
37 filed pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known  
38 as the open public records act, which have been settled by the parties  
39 thereto. Such a list shall provide the docket number and names of the  
40 parties to the action. The council shall compile a database comprised  
41 of the data provided by the Superior Court.

42 The Administrative Office of the Courts, on behalf of the Superior  
43 Court of New Jersey, shall provide the Government Records Council a  
44 report at the end of each court year of all cases filed pursuant to  
45 P.L.1963, c.73 (C.47:1A-1 et seq.). The report shall be grouped by  
46 defendant and county filed in and shall include a comprehensive list of  
47 all cases filed with a summary judgment regarding P.L.1963, c.73  
48 (C.47:1A-1 et seq.), Statewide, itemized by the following factors:

- 1       (1) Case caption;
- 2       (2) County of venue;
- 3       (3) Docket number;
- 4       (4) Counsel of records;
- 5       (5) Case disposition; and
- 6       (6) Attorney's fees requested and awarded.<sup>2</sup>

7 (cf: P.L.2001, c.404, s.8)

8  
9       <sup>2</sup>[6.] 5.<sup>2</sup> Section 12 of P.L.2001, c.404 (C.47:1A-11) is  
10 amended to read as follows:

11       12. a. **[A]** If a public official, officer, employee, or custodian  
12 **[who]** is found to have knowingly and willfully [violates] violated  
13 P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented,  
14 and [is found] to have unreasonably denied access under the  
15 totality of the circumstances, the public agency that employs the  
16 custodian, officer, employee, or official shall be subject to a civil  
17 penalty of \$1,000 for an initial violation, \$2,500 for a second  
18 violation that occurs within 10 years of an initial violation, and  
19 \$5,000 for a third violation that occurs within 10 years of an initial  
20 violation. [This penalty] The penalties authorized pursuant to this  
21 subsection may be imposed by the courts or by the Government  
22 Records Council.

23       b. A requestor<sup>2</sup>[who is found to have sold the data obtained by  
24 a records request,]<sup>2</sup> who is found to have intentionally failed to  
25 certify that a records request is for a commercial purpose<sup>2</sup>[, who is  
26 a data broker, or who is making the request on behalf of and for the  
27 use of a data broker, and is found to have intentionally certified that  
28 the requestor is not a data broker or is not making the request on  
29 behalf of and for the use of a data broker,]<sup>2</sup> shall be subject to a  
30 civil penalty of \$1,000 for the first offense, \$2,500 for the second  
31 offense, and \$5,000 for each subsequent offense. The penalties may  
32 be imposed by the courts.

33       c. These penalties shall be collected and enforced in  
34 proceedings in accordance with the "Penalty Enforcement Law of  
35 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court  
36 governing actions for the collection of civil penalties. The Superior  
37 Court shall have jurisdiction of proceedings for the collection and  
38 enforcement of the penalty imposed by this section.

39       d. Appropriate disciplinary proceedings may be initiated  
40 against a public official, officer, employee or custodian against  
41 whom a penalty has been imposed.

42 (cf: P.L.2001, c.404, s.12)

43  
44       <sup>2</sup>[7.] 6.<sup>2</sup> Section 2 of P.L.2021, c.371 (C.47:1B-2) is amended  
45 to read as follows:

46       2. a. An authorized person seeking the redaction or  
47 nondisclosure of the home address of any covered person from  
48 certain records and Internet postings consistent with section 2 of

1 P.L.2015, c.226 (C.47:1-17), section 1 of P.L.1995, c.23 (C.47:1A-  
2 1.1), or section 6 of P.L.2001, c.404 (C.47:1A-5) shall submit a  
3 request in accordance with section 1 of P.L.2021, c.371 (C.47:1B-1)  
4 to the Office of Information Privacy through the secure portal  
5 established by the office. The address shall only be subject to  
6 redaction or nondisclosure if a request is submitted to and approved  
7 by the Director of the Office of Information Privacy.

8 b. (1) A public agency shall redact or cease to disclose, in  
9 accordance with section 6 of P.L.2001, c.404 (C.47:1A-5) and  
10 section 1 of P.L.1995, c.23 (C.47:1A-1.1), respectively, the home  
11 address of a covered person approved by the Office of Information  
12 Privacy not later than 30 days following the approval. A public  
13 agency shall also discontinue the redaction or nondisclosure of the  
14 home address of any covered person for whom a revocation request  
15 has been approved not later than 30 days following the approval.

16 (2) A custodian of a public agency who makes a reasonable  
17 effort to comply with this subsection shall be presumed to have  
18 acted without willful, purposeful, or reckless disregard of the law.

19 c. An immediate family member who has sought and received  
20 approval under subsection a. of this section and who no longer  
21 resides with the active, formerly active, or retired judicial officer,  
22 law enforcement officer, child protective investigator in the  
23 Division of Child Protection and Permanency, or prosecutor shall  
24 submit through the portal a revocation request not later than 30 days  
25 from the date on which the immediate family member no longer  
26 resided with the judicial officer, law enforcement officer, child  
27 protective investigator in the Division of Child Protection and  
28 Permanency, or prosecutor.

29 d. A person submitting a request pursuant to subsection a. of  
30 this section shall affirm in writing that the person understands that  
31 certain rights, duties, and obligations are affected as a result of the  
32 request, including:

33 (1) the receipt of certain notices from non-governmental entities  
34 as would otherwise be required pursuant to the "Municipal Land  
35 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.);

36 (2) the signing of petitions related to the nomination or election  
37 of a candidate to public office or related to any public question;

38 (3) the eligibility or requirements related to seeking or accepting  
39 the nomination for election or election to public office, or the  
40 appointment to any public position;

41 (4) the sale or purchase of a home or other property, recordation  
42 of a judgment, lien or other encumbrance on real or other property,  
43 and any relief granted based thereon;

44 (5) the ability to be notified of any class action suit or  
45 settlement; and

46 (6) any other legal, promotional, or official notice which would  
47 otherwise be provided to the person but for the redaction or  
48 nondisclosure of such person's home address pursuant to subsection

1 a. of this section.  
2 (cf: P.L.2023, c.113, s.4)

3  
4 <sup>2</sup>~~8.~~ 7.<sup>2</sup> (New section) a. Notwithstanding any other law or  
5 rule or regulation to the contrary, whenever there is filed a verified  
6 complaint to the Superior Court of the county in which the request  
7 for access to government records was made under P.L.1963, c.73  
8 (C.47:1A-1 et seq.) alleging that a requestor has sought records  
9 <sup>2</sup>~~thereunder for the purpose to harass a public agency, or to~~ with  
10 the intent to<sup>2</sup> substantially interrupt <sup>2</sup>the performance of<sup>2</sup>  
11 government function, the court may issue a protective order limiting  
12 the number and scope of requests the requestor may make or order  
13 such other relief as it deems appropriate, including referral of the  
14 matter to mediation <sup>2</sup>or a waiver of the required response time<sup>2</sup>.  
15 The court may issue the protective order if it finds <sup>2</sup>by clear and  
16 convincing evidence<sup>2</sup> that the requestor has sought records under  
17 P.L.1963, c.73 (C.47:1A-1 et seq.) <sup>2</sup>~~for the purpose of harassing~~  
18 ~~the public agency, or to~~ with the intent to<sup>2</sup> substantially interrupt  
19 <sup>2</sup>the performance of<sup>2</sup> government function <sup>2</sup>~~], as the term harass is~~  
20 defined in N.J.S.2C:33-4<sup>2</sup>. The complaint shall be accompanied  
21 by a declaration of facts by the public agency withholding the  
22 records demonstrating that it has complied with P.L.1963, c.73  
23 (C.47:1A-1 et seq.) and has made a good faith effort to reach an  
24 informal resolution of the issues relating to the records requests.

25 The requestor shall have notice and an opportunity to answer the  
26 allegations set forth in the petition submitted by the public agency.

27 The public agency shall have the burden of proof by clear and  
28 convincing evidence.

29 The court's consideration of a public agency's complaint for  
30 relief shall proceed in a summary or expedited manner.

31 b. The order specified in subsection a. of this section may limit,  
32 or, in appropriate circumstances, eliminate the public agency's duty  
33 to respond to government records requests from the requestor in the  
34 future.

35 <sup>2</sup>c. Requests for government records filed by a labor  
36 organization or by a contractor signatory to a collective bargaining  
37 agreement seeking information material to the enforcement of State  
38 or federal statutes or regulations regarding but not limited to wage  
39 and hour protections, workplace safety, or public procurement and  
40 public bidding, including but not limited to requests for certified  
41 payrolls or information about all bids submitted in response to a  
42 public procurement process subsequent to the deadline for the  
43 submission of all bids for that solicitation, when the request by the  
44 labor organization or contractor signatory is not sought in  
45 connection to or in furtherance of discovery requests in a court  
46 proceeding, shall not be considered to be intended to interrupt  
47 government functions, and shall not form the basis for the filing of  
48 a complaint under this section.<sup>2</sup>

1       <sup>2</sup>[9. (New section) a. A data broker business entity conducting  
2 business in this State shall register with the Division of Revenue  
3 and Enterprise Services in the Department of the Treasury. The  
4 division shall impose an annual fee of \$250 for each registration.  
5 The fee shall be deposited into the fund created pursuant to  
6 subsection c. of this section. For the purpose of this section, “data  
7 broker” shall have the same meaning as in section 1 of P.L.1995,  
8 c.23 (C.47:1A-1.1).

9       b. The Department of the Treasury may issue rules and  
10 regulations necessary to effectuate the purpose of this section. The  
11 rules and regulations shall be effective immediately upon filing  
12 with the Office of Administrative Law for a period not to exceed  
13 one year and may, thereafter, be amended, adopted, or readopted in  
14 accordance with the "Administrative Procedure Act," P.L.1968,  
15 c.410 (C.52:14B-1 et seq.).

16       c. There shall be created in the Department of the Treasury a  
17 dedicated, non-lapsing fund for providing grants to political  
18 subdivisions of the State for the purpose of providing access to  
19 government records electronically, including through the use of  
20 shared services agreements. The fund shall be administered by the  
21 State Treasurer. Monies in the fund shall be appropriated annually  
22 solely for this purpose.]<sup>2</sup>

23

24       <sup>2</sup>[10. (New section) The Attorney General shall establish a  
25 Police Record Access Improvement Task Force to investigate the  
26 existing statutes governing public access to police records and  
27 develop recommendations for necessary changes to the law.

28       The members of the Police Record Access Improvement Task  
29 Force shall be comprised of 12 members. The membership of the  
30 task force shall be as follows:

31       The Attorney General, or the Attorney’s General designee, who  
32 shall serve ex officio, as Chair;

33       Seven public members, appointed by the Governor, one who is a  
34 member of law enforcement, one who is a county or municipal  
35 prosecutor, one who is a criminal defense attorney or public  
36 defender, one who is a member of a social justice advocacy  
37 organization, one who is a member of the New Jersey Press  
38 Association, one who is a member of the New Jersey League of  
39 Municipalities, and one who is a member of the New Jersey  
40 Association of Counties;

41       Two public members, appointed by the Governor upon the  
42 recommendation of the President of the Senate; and

43       Two public members, appointed by the Governor upon the  
44 recommendation of the Speaker of the General Assembly.

45       The task force shall submit to the Governor and to the  
46 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
47 19.1), recommendations for changes to the law.

48       The Department of Law and Public Safety shall provide  
49 stenographic, clerical, and other administrative assistance and

1 professional staff as the task force requires to carry out its work.  
2 The task force shall be entitled to call to its assistance and avail  
3 itself of the services of the employees of any State, county, or  
4 municipal department, board, bureau, commission, or agency as it  
5 may require and as may be available for its purposes.

6 The public members of the task force shall serve without  
7 compensation, but may be reimbursed for necessary and actual  
8 expenses incurred in the performance of their duties to the extent  
9 that funds are made available for that purpose. **】<sup>2</sup>**

10

11 **<sup>2</sup>[11.] 8.<sup>2</sup>** (New section) a. The provisions of this section shall  
12 apply only to the New Jersey Division of Elections, the New Jersey  
13 Election Law Enforcement Commission, County Boards of  
14 Elections, County Superintendents of Elections, County Clerks,  
15 Municipal Clerks, Fire District Board Clerks, School District  
16 Business Administrators, and School District Board Secretaries,  
17 hereafter referred to as an “election agency” or “election agencies.”  
18 Except as otherwise provided for in this section, all provisions of  
19 this act, P.L. , c. (pending before the Legislature as this bill),  
20 shall apply to all election agencies. Nothing herein shall be  
21 construed to mean that an election agency is required to provide a  
22 record in response to a request for records, unless it has made or  
23 received and maintains said requested record pursuant to law or  
24 regulation.

25 b. Notwithstanding any other law, rule, or regulation to the  
26 contrary, except as otherwise provided in sections 2 and 3 of  
27 P.L.2021, c.371 (C.47:1B-1 et seq.), subsection b. of section 1 of  
28 P.L.1994, c.148 (C.19:31-3.2), or in any rules or regulations  
29 promulgated by the Secretary of State pursuant to subsection f. of  
30 this section, the following shall be records for which the provided  
31 information shall not be redacted by an election agency except for  
32 voter signatures, Social Security numbers, driver license numbers,  
33 and non-driver identification numbers:

34 (1) Voter registration forms and forms changing the provided  
35 information thereof;

36 (2) Party affiliation forms and forms changing the provided  
37 information thereof;

38 (3) Applications for a vote-by-mail ballot, except as otherwise  
39 provided in sections 3 and 13 of P.L.2020, c.70 (C.19:63-1 et seq.);

40 (4) Forms or reports submitted to the Election Law Enforcement  
41 Commission;

42 (5) Nominating petitions for any candidate for any elected  
43 office, which shall be provided in a manner that includes voter  
44 signatures on such petitions;

45 (6) Petitions to recall an elected official, which shall be  
46 provided in a manner that includes voter signatures on such  
47 petitions;

1 (7) Petitions or submissions for any public question or referenda  
2 to be considered by voters, which shall be provided in a manner that  
3 includes voter signatures on such petitions;

4 (8) Any submissions, responses, objections, or challenges  
5 pertaining to a record referred to in this subsection; and

6 (9) Any addendums, amendments, corrections, withdrawals, or  
7 accompanying forms or submissions pertaining to a record referred  
8 to in this subsection.

9 c. Notwithstanding any other law, rule, or regulation to the  
10 contrary, the following shall be records and information that an  
11 election agency shall make available to requestors for immediate  
12 access and transmission via email as soon as possible, but not later  
13 than two business days after receipt of the request, provided the  
14 request is not for a commercial purpose, for which a fee shall not be  
15 charged nor collected:

16 (1) Nominating petitions for any candidate for any elected office  
17 filed with the election agency within the preceding 90 days of the  
18 date the request is received;

19 (2) Petitions to recall an elected official filed with the election  
20 agency within the preceding 90 days of the date the request is  
21 received;

22 (3) Petitions or submissions for any public question or referenda  
23 to be considered by voters filed with the election agency within the  
24 preceding 90 days of the date the request is received;

25 (4) Any submissions, responses, objections, or challenges filed  
26 with the election agency within the preceding 90 days pertaining to  
27 a record referred to in this subsection;

28 (5) Any addendums, amendments, corrections, withdrawals, or  
29 accompanying forms or submissions filed with the election agency  
30 within the preceding 90 days pertaining to a record referred to in  
31 this subsection; and

32 (6) The inspection and transmission deadline requirements of  
33 this subsection shall be deemed satisfied if an election agency posts  
34 on its website the records and information referred to in this  
35 subsection.

36 d. Notwithstanding any other law, rule, or regulation to the  
37 contrary, the following in paragraphs (1) through (4) of this  
38 subsection shall be records and information that an election agency  
39 shall make available to requestors for immediate access and  
40 transmission via email as soon as possible, provided the request  
41 pertains only to an election to be held within 16 days after the date  
42 of the request and is not for a commercial purpose. The  
43 transmission shall be not later than two business days after receipt  
44 of the request when said request is made between one and 15 days  
45 before the date of the election pertaining to the request. For any  
46 request submitted the day before an election by noon, the request  
47 shall be completed by noon the day of the election. A fee shall not  
48 be charged nor collected. This subsection shall apply to:

1 (1) Lists, in a format capable of being sorted by the requestor, of  
2 registered voters, including their name, address, party affiliation,  
3 and municipal voting ward and district, who have requested, been  
4 mailed, or returned a vote-by-mail ballot, including the dates the  
5 ballot was requested by the voter, mailed to the voter, and received  
6 by the appropriate election agency;

7 (2) Lists, in a format capable of being sorted by the requestor, of  
8 registered voters, including their name, address, party affiliation,  
9 and municipal voting ward and district, who have cast a vote during  
10 the early voting period, including the date and polling location the  
11 vote was cast;

12 (3) The inspection and transmission deadline requirements of this  
13 subsection shall be deemed satisfied if an election agency posts on  
14 its website the records and information referred to in this  
15 subsection; and

16 (4) Whenever the requirements of this subsection would cause a  
17 voter's privacy to be violated, the information shall be provided in a  
18 manner that maintains the privacy of the voter.

19 e. The following records or information shall not be subject to  
20 disclosure pursuant to a request for public records:

21 (1) Ballots marked by a voter, vote tabulations, or election  
22 results for any election prior to the time of the closing of the polls  
23 on the date of the election, except as otherwise provided for by law,  
24 rule, or regulation; and

25 (2) Manuals instructions, specifications, technical information,  
26 or programming code of computers, software, applications,  
27 networks, tablets, voting machines, printers, scanners, and any other  
28 equipment, systems, policies or plans used for the conduct of  
29 elections, the disclosure of which, could have the potential to  
30 jeopardize the security, integrity or accuracy of the conduct of  
31 elections, tabulation of votes, or determination of election results,  
32 except as otherwise provided for by law, rule, or regulation, or in  
33 response to a subpoena or order of a court or tribunal of competent  
34 jurisdiction.

35 f. The Secretary of State may adopt regulations necessary to  
36 effectuate the purposes of this act, which regulations shall be  
37 effective immediately upon filing with the Office of Administrative  
38 Law for a period not to exceed 18 months, and may, thereafter, be  
39 amended, adopted or readopted in accordance with the provisions of  
40 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
41 seq.).

42  
43 <sup>2</sup>[12.] 9.<sup>2</sup> (New section) a. <sup>2</sup>[The provisions of section 1 of  
44 P.L.1963, c.73 (C.47:1A-1), section 1 of P.L.1995, c.23 (C.47:1A-  
45 1.1), sections 6, 7, and 8 of P.L.2001, c.404 (C.47:1A-5 through  
46 47:1A-7), and section 2 of P.L.2021, c.371 (C.47:1B-2), as  
47 amended by sections 1 through 5 and section 7 of P.L. , c.  
48 (pending before the Legislature as this bill), shall apply  
49 retroactively to all complaints and appeals pending before the

1 Government Records Council, the Superior Court or the Supreme  
2 Court of New Jersey filed prior to the effective date of P.L. , c.  
3 (pending before the Legislature as this bill), provided, however, that  
4 nothing in this section shall be construed as to retroactively reduce  
5 the statute of limitations governing any complaint or appeal pending  
6 before the Government Records Council, the Superior Court or the  
7 Supreme Court of New Jersey.

8 **b.]<sup>2</sup>** All complaints and appeals pending before the Government  
9 Records Council or the Superior Court filed prior to the effective  
10 date of P.L. , c. (pending before the Legislature as this bill),  
11 either anonymously or using a fictitious name or identity, may be  
12 dismissed with prejudice upon a motion by the public agency,  
13 unless the complainant files an amendment to their complaint that  
14 accurately identifies their name and mailing address within 90 days  
15 of the effective date of P.L. , c. (pending before the Legislature  
16 as this bill).

17 **<sup>2</sup>[c.] b.<sup>2</sup>** The parties to any complaint or appeal pending before  
18 the Government Records Council, the Superior Court or the  
19 Supreme Court of New Jersey filed prior to the effective date of  
20 P.L. , c. (pending before the Legislature as this bill), shall be  
21 permitted to file an amendment to their respective complaints and  
22 answers within 90 days of the effective date of P.L. , c. (pending  
23 before the Legislature as this bill).

24  
25 **<sup>2</sup>10. (New section) a.** A person who has obtained a photograph  
26 or video recording pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.),  
27 and who is not a subject of the photograph or video footage, shall  
28 not disclose any indecent or graphic images of the subject's  
29 intimate parts, captured by the photograph or recording, without the  
30 prior written consent of the subject of the photograph or video  
31 footage or written consent of the legal next of kin if the subject is  
32 deceased.

33 b. A person who knowingly violates the provisions of  
34 subsection a. of this section shall be guilty of a disorderly persons  
35 offense.

36 c. As used in this section:

37 "Disclose" means to sell, manufacture, give, provide, lend, mail,  
38 deliver, transfer, publish, post, distribute, circulate, disseminate,  
39 present, exhibit, advertise, offer, share, or make available through  
40 the Internet or by any other means, whether or not for pecuniary  
41 gain.

42 "Indecent or graphic" means images depicting exposed intimate  
43 parts in a manner that would be clearly visible to a reasonable  
44 person.

45 "Intimate parts" means the following body parts: sexual organs,  
46 genital area, anal area, inner thigh, groin, buttock, or breast of a  
47 person.

1       “Subject of the photograph or video footage” means a person  
2 who appears in the photograph or video recording.<sup>2</sup>

3  
4       <sup>2</sup>[13.] 11.<sup>2</sup> a. There is hereby appropriated \$4,000,000 from the  
5 State General Fund to the Department of Community Affairs to  
6 provide grants to political subdivisions of the State for the purpose  
7 of making government records that are accessible under P.L.1963,  
8 c.73 (C.47:1A-1 et seq.) available electronically, including through  
9 the use of shared services agreements.

10       b. There is hereby appropriated \$4,000,000 from the State  
11 General Fund to the Department of Community Affairs for the  
12 Government Records Council.

13       <sup>2</sup>c. There is hereby appropriated \$2,000,000 from the State  
14 General Fund to the Department of Community Affairs for the  
15 Government Records Council to effectuate the purposes of section 8  
16 of P.L.2001, c.404 (C.47:1A-7) as amended by section 5 of P.L. .  
17 c. (pending before the Legislature as this bill).<sup>2</sup>

18  
19       <sup>2</sup>[14.] 12.<sup>2</sup> This act shall take effect <sup>2</sup>[30] 90<sup>2</sup> days following  
20 the date of enactment <sup>2</sup>[], except as otherwise provided for in this  
21 act, and except that section 9 and section 11 shall take effect eight  
22 months following the date of enactment. The Attorney General,  
23 Department of Community Affairs, the Government Records  
24 Council, the Department of the Treasury, and the Department of  
25 State may take any anticipatory administrative action in advance as  
26 shall be necessary for the implementation of this act.]<sup>2</sup>

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2930**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 11, 2024

The Senate Budget and Appropriations Committee reports favorably and with amendments Senate Bill No. 2930.

As amended by the committee, this bill makes various changes to the law governing access to government records, commonly known as the open public records act, including the following:

- modifies the conditions under which a records custodian has to respond to a request for records, allowing the custodian discretion to deny duplicative or anonymous requests;

- encourages and allocates funds to assist public agencies in moving documents online, making these records searchable via an online database, to the extent feasible;

- creates a uniform and comprehensive definition of “personal identifying information” which, in many cases, is redacted by the records custodian;

- establishes specific timelines for responses to records requests occurring under various circumstances, such as when a record may be unavailable or in storage, and adds additional specificity and clarity to the items and information which are exempt from public access;

- prohibits records requests made by or for data brokers, who take the information they gather and use it for a commercial purpose;

- transfers the responsibility for violations from the custodian to the public agency, and allows, in limited circumstances, for the courts to issue a protective order to shield the agency from harassment;

- alters the composition of the Government Records Council, adding more public members, establishing staggered five year terms and annual salaries, and ensuring partisan balance; and

- establishes a Police Record Access Improvement Task Force to investigate the existing statutes governing public access to police records and develop recommendations for necessary changes to the law.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

require records custodians to assist requestors who are unable to find the record on the public website after the custodian has provided the initially required directions. The requestor has seven days after the custodian provides the initial directions to request further assistance. After the request is received by the custodian, the custodian has seven days to provide the requested assistance;

require notification to the Superior Court or the Government Records Council of the timely production of records in order for the matter to be dismissed without prejudice and to entitle a requestor to a reasonable attorney's fee; and

ensure partisan balance amongst the public members appointed to the Government Records Council.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## SENATE, No. 2930

with committee amendments

# STATE OF NEW JERSEY

DATED: MAY 9, 2024

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2930 (1R).

As amended by the committee, this bill makes various changes to the law governing access to government records, commonly known as the open public records act, including the following:

- modifies the conditions under which a records custodian has to respond to a request for records, allowing the custodian discretion to deny duplicative requests;

- encourages and allocates funds to assist public agencies in moving documents online, making these records searchable via an online database, to the extent feasible;

- creates a comprehensive definition of “personal identifying information” which, in many cases, is redacted by the records custodian;

- establishes specific timelines for responses to records requests occurring under various circumstances, such as when a record may be unavailable or in storage, and adds additional specificity and clarity to the items and information which are exempt from public access;

- transfers the responsibility for violations from the custodian to the public agency, and allows, in limited circumstances, for the courts to issue a protective order to shield the agency from harassment;

- alters the composition of the Government Records Council, adding more public members, establishing staggered five year terms and annual salaries, and ensuring partisan balance;

- adds labor organizations, contractor signatories, and nonprofit organizations to the list of parties exempt from “commercial purpose”;

  - defines “labor organization”;

- removes record request limitations and registration fees on data brokers;

- removes the following from exemption from public record requests: notes, draft material, deliberative material, information related to negotiating positions, logs of telephone calls, logs of texts, logs of emails, and electronic or paper calendars for individuals;

specifies legal next of kin, legal representatives, attending physicians, when permitted by a court, and courts may have access to visual autopsy records;

specifies that releasing security footage is permitted as long as it does not compromise the integrity of the security system;

prohibits indecent or graphic images of a person's intimate parts from release by a record request;

requires the custodian to provide a requestor with an itemized list of charges and permit the requestor to challenge the charges;

determines charges are reasonable and places burden of proof upon requestor to determine that charges are not reasonable;

allows public agency to charge certain fees or not complete a request if the medium of the record requested is unavailable;

specifies that a request submitted anonymously will not be considered incomplete;

requires the Government Records Council to create a uniform record request form that will be adopted by all public agencies;

allows a commercial requestor to pay a special service fee to receive a record in seven business days instead of 14 business days;

specifies that the court or Government Records Council may award a reasonable attorney's fee to any requestor who prevails in any proceeding, but determines that a requestor will always receive a reasonable attorney's fee if the public agency has been determined to have denied the record unreasonably, acted in bad faith, or knowingly and willfully violated the open public records act;

requires the Superior Court and the Administrative Office of the Courts to report certain data on actions brought before the court regarding record requests;

removes the Police Record Access Improvement Task Force; and appropriates an additional \$2,000,000 for the Government Records Council to effectuate the purposes of the bill.

Nothing in this bill is intended to modify Daniel's Law restrictions on the disclosure or re-disclosure of covered person's home address, including street address or other home address identifiers, or unpublished home phone number information following a request for removal.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to:

add labor organizations, contractor signatories, and nonprofit organizations to the list of parties exempt from "commercial purpose";

define "labor organization;"

remove record request limitations and registration fees on data brokers;

remove the following from exemption from public record requests: notes, draft material, deliberative material, information related to

negotiating positions, logs of telephone calls, logs of texts, logs of emails, and electronic or paper calendars for individuals;

specify legal next of kin, legal representatives, attending physicians, when permitted by a court, and courts may have access to visual autopsy records;

specify that releasing security footage is permitted as long as it does not compromise the integrity of the security system;

prohibit indecent or graphic images of a person's intimate parts from release by a record request;

require the custodian to provide a requestor with an itemized list of charges and permit the requestor to challenge the charges;

determine charges are reasonable and places burden of proof upon requestor to determine that charges are not reasonable;

allow public agency to charge certain fees or not complete a request if the medium of the record requested is unavailable;

specify that a request submitted anonymously will not be considered incomplete;

require the Government Records Council to create a uniform record request form that will be adopted by all public agencies;

allow a commercial requestor to pay a special service fee to receive a record in seven business days instead of 14 business days;

specify that the court or Government Records Council may award a reasonable attorney's fee to any requestor who prevails in any proceeding, but determines that a requestor will always receive a reasonable attorney's fee if the public agency has been determined to have denied the record unreasonably, acted in bad faith, or knowingly and willfully violated the open public records act law;

require the Superior Court and the Administrative Office of the Courts to report certain data on actions brought before the court regarding record requests;

remove Police Record Access Improvement Task Force; and

appropriate an additional \$2,000,000 for the Government Records Council to effectuate the purposes of the bill.

Nothing in this bill is intended to modify Daniel's Law restrictions on the disclosure or re-disclosure of covered person's home address, including street address or other home address identifiers, or unpublished home phone number information following a request for removal.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 2930**  
**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

DATED: MARCH 13, 2024

**SUMMARY**

- Synopsis:** Makes various changes to process for access to government records; appropriates \$8 million.
- Type of Impact:** Annual State and local cost and revenue impacts.
- Agencies Affected:** Department of Community Affairs; State, local government, and school district agencies.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Annually Thereafter</u></b>
<b>State Cost Impact</b>	Up to \$8 million	Indeterminate
<b>State Revenue Impact</b>	Indeterminate	Indeterminate
<b>Local Cost Impact</b>	Indeterminate	Indeterminate
<b>Local Revenue Increase</b>	Up to \$4 million	Indeterminate

- The Office of Legislative Services (OLS) concludes that this bill will result in an indeterminate net impact on the finances of State and local public agencies.
- The OLS determines that the bill may result in a State cost increase of up to \$8 million in the first year the bill is in effect. If the full \$8 million is not expended in the first year, the residual amount will be spent in subsequent fiscal years until the full \$8 million is exhausted.
- The bill appropriates \$4 million for the Department of Community Affairs to provide grants to political subdivisions of the State to make government records available to the public electronically, including through shared services agreements. The State expenditure increase would lead to a concurrent revenue increase for counties, municipalities, and school districts that receive grants under the program.
- The bill also appropriates \$4 million to the Department of Community Affairs for the operations of the Government Records Council.

- Beyond the appropriated amount, the OLS is unable to estimate the direction and magnitude of the bill's net impact on State and local finances. This is so because of the countervailing effects of the bill, some examples of which include:
  - 1) Annual expenditure and revenue decreases for public agencies from an overall reduction in the number of requests to which an agency must respond and the number of records which must be produced.
  - 2) Potential annual expenditure increases for public agencies to make any adjustments and modifications necessary to meet accelerated records request fulfillment and complaint adjudication timelines.
  - 3) Annual State expenditure increase for a new salary of \$12,000 for each of the eight public members of the Government Records Council, pursuant to the bill.
  - 4) Annual expenditure decrease for public agencies resulting from the bill's provision that removes the mandatory awarding of attorney's fees to a requestor who prevails in any complaint proceeding against a public agency.
  - 5) Annual State revenue increases from the bill's establishment of registration fees for data brokers, and penalties for improper records requests made by data brokers.

## **BILL DESCRIPTION**

This bill makes various changes to the law governing access to government records, commonly known as the Open Public Records Act. The bill appropriates funds to assist local public agencies in moving public records online, where members of the public can search for such documents.

The bill also restricts the ability of certain records requestors, such as those who make requests anonymously or data brokers who request documents in order to profit from the data therein, to request public records. Under the bill, records custodians are directed to withhold or redact records which include personal identifying information, or information which the custodian has reason to believe would result in harassment or the conduct of another crime.

This bill revises the structure and membership of the Government Records Council and provides a salary to each of its members.

The bill also modifies or eliminates several fees which may be charged by the custodian for certain records requests, makes the award of attorney's fees in a dispute over access to a government record discretionary, rather than mandatory, and shifts responsibility for fines and penalties awarded as the result of an improper denial of a request for a public record from the custodian to the public agency that employs the custodian.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

**OFFICE OF LEGISLATIVE SERVICES**

The OLS estimates that this bill will result in an indeterminate net impact on the finances of State and local public agencies.

The OLS determines that the bill may result in a State cost increase of up to \$8 million in the first year the bill is in effect. If the full \$8 million is not expended in the first year, the residual amount will be spent in subsequent fiscal years until the full \$8 million is exhausted.

The bill appropriates \$4 million for the Department of Community Affairs to provide grants to political subdivisions of the State to make government records available to the public electronically, including through shared services agreements. The State expenditure increase would lead to a concurrent revenue increase for counties, municipalities, and school districts that receive grants under the program.

The bill also appropriates \$4 million to the Department of Community Affairs for the operations of the Government Records Council.

Beyond the appropriated amount, the OLS is unable to estimate the direction and magnitude of the bill's net impact on State and local finances. This is so because of the countervailing effects of the bill, some of which are summarized in the following paragraphs.

The bill would result in annual expenditure and revenue decreases for public agencies from an overall reduction in the number of requests to which an agency must respond and the number of records which must be produced. For example, the bill prohibits requests by data brokers and permits requests for government records to be fulfilled by providing the requestor with the online location of the records requested, which would reduce agency costs. However, reducing the overall volume of records requests and removing the option for a public agency to charge the actual cost of duplicating a record would also reduce agency revenues.

The bill may also result in potential annual expenditure increases for certain public agencies to make any adjustments and modifications necessary to meet accelerated records request fulfillment and complaint adjudication timelines. Under the bill, the Government Records Council would be required to adjudicate all complaints that come before it within 90 days of the complaint's filing, with the possibility of extending the deadline by 30 days in certain circumstances. Also, the bill would require State and local election agencies to make records and information specified in the bill available within two business days of receiving the request.

Pursuant to the bill, there would be an annual State expenditure increase for a new salary of \$12,000 for each of the eight public members of the Government Records Council. The OLS estimates these new salaries and related employment benefits would increase State costs by \$107,000 annually.

There would also be an annual State expenditure decrease for public agencies resulting from the bill's provision that removes the mandatory awarding of attorney's fees to a requestor who prevails in any complaint proceeding against a public agency. The bill makes the award of attorney's fees in a dispute over access to a government record discretionary, rather than mandatory.

Additionally, the bill would increase State revenues by establishing annual registration fees for data brokers, as well as penalties for improper records requests made by data brokers or those making requests on behalf of and for the use of a data broker.

Finally, the OLS notes the overall expenditure and revenue impacts for any one public agency will depend on the change in the number of government records requests and the change in the number of complaints filed by requestors. The OLS does not have specific data regarding the government records requests handled by public agencies in the State.

*Section: State Government*

*Analyst: Ryan Brinkerhoff  
Deputy Counsel*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 2930

### STATE OF NEW JERSEY 221st LEGISLATURE

DATED: MARCH 19, 2024

#### SUMMARY

- Synopsis:** Makes various changes to process for access to government records; appropriates \$8 million.
- Type of Impact:** Annual State and local cost and revenue impacts.
- Agencies Affected:** Department of Community Affairs; State, local government, and school district agencies.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Annually Thereafter</u></b>
<b>State Cost Impact</b>	Increase of up to \$8 million	Indeterminate
<b>State Revenue Impact</b>	Indeterminate	Indeterminate
<b>Local Cost Impact</b>	Indeterminate	Indeterminate
<b>Local Revenue Impact</b>	Increase of up to \$4 million	Indeterminate

- The Office of Legislative Services (OLS) concludes that this bill will result in an indeterminate net impact on the finances of State and local public agencies.
- The OLS determines that the bill may result in a State cost increase of up to \$8 million in the first year the bill is in effect. If the full \$8 million is not expended in the first year, the residual amount will be spent in subsequent fiscal years until the full \$8 million is exhausted.
- The bill appropriates \$4 million for the Department of Community Affairs to provide grants to political subdivisions of the State to make government records available to the public electronically, including through shared services agreements. The State expenditure increase would lead to a concurrent revenue increase for counties, municipalities, and school districts that receive grants under the program.
- The bill also appropriates \$4 million to the Department of Community Affairs for the operations of the Government Records Council.

- Beyond the appropriated amount, the OLS is unable to estimate the direction and magnitude of the bill's net impact on State and local finances. This is so because of the countervailing effects of the bill, some examples of which include:
  - 1) Annual expenditure and revenue decreases for public agencies from an overall reduction in the number of requests to which an agency must respond and the number of records which must be produced.
  - 2) Potential annual expenditure increases for public agencies to make any adjustments and modifications necessary to meet accelerated records request fulfillment and complaint adjudication timelines.
  - 3) Annual State expenditure increase for a new salary of \$12,000 for each of the eight public members of the Government Records Council, pursuant to the bill.
  - 4) Annual expenditure decrease for public agencies resulting from the bill's provision that removes the mandatory awarding of attorney's fees to a requestor who prevails in any complaint proceeding against a public agency.
  - 5) Annual State revenue increases from the bill's establishment of registration fees for data brokers, and penalties for improper records requests made by data brokers.

## **BILL DESCRIPTION**

This bill makes various changes to the law governing access to government records, commonly known as the Open Public Records Act. The bill appropriates funds to assist local public agencies in moving public records online, where members of the public can search for such documents.

The bill also restricts the ability of certain records requestors, such as those who make requests anonymously or data brokers who request documents in order to profit from the data therein, to request public records. Under the bill, records custodians are directed to withhold or redact records which include personal identifying information, or information which the custodian has reason to believe would result in harassment or the conduct of another crime.

This bill revises the structure and membership of the Government Records Council and provides a salary to each of its members.

The bill also modifies or eliminates several fees which may be charged by the custodian for certain records requests, makes the award of attorney's fees in a dispute over access to a government record discretionary, rather than mandatory, and shifts responsibility for fines and penalties awarded as the result of an improper denial of a request for a public record from the custodian to the public agency that employs the custodian.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

**OFFICE OF LEGISLATIVE SERVICES**

The OLS concludes that this bill will result in an indeterminate net impact on the finances of State and local public agencies.

The OLS determines that the bill may result in a State cost increase of up to \$8 million in the first year the bill is in effect. If the full \$8 million is not expended in the first year, the residual amount will be spent in subsequent fiscal years until the full \$8 million is exhausted.

The bill appropriates \$4 million for the Department of Community Affairs to provide grants to political subdivisions of the State to make government records available to the public electronically, including through shared services agreements. The State expenditure increase would lead to a concurrent revenue increase for counties, municipalities, and school districts that receive grants under the program.

The bill also appropriates \$4 million to the Department of Community Affairs for the operations of the Government Records Council.

Beyond the appropriated amount, the OLS is unable to estimate the direction and magnitude of the bill's net impact on State and local finances. This is so because of the countervailing effects of the bill, some of which are summarized in the following paragraphs.

The bill would result in annual expenditure and revenue decreases for public agencies from an overall reduction in the number of requests to which an agency must respond and the number of records which must be produced. For example, the bill prohibits requests by data brokers and permits requests for government records to be fulfilled by providing the requestor with the online location of the records requested, which would reduce agency costs. However, reducing the overall volume of records requests and removing the option for a public agency to charge the actual cost of duplicating a record would also reduce agency revenues.

The bill may also result in potential annual expenditure increases for certain public agencies to make any adjustments and modifications necessary to meet accelerated records request fulfillment and complaint adjudication timelines. Under the bill, the Government Records Council would be required to adjudicate all complaints that come before it within 90 days of the complaint's filing, with the possibility of extending the deadline by 30 days in certain circumstances. Also, the bill would require State and local election agencies to make records and information specified in the bill available within two business days of receiving the request.

Pursuant to the bill, there would be an annual State expenditure increase for a new salary of \$12,000 for each of the eight public members of the Government Records Council. The OLS estimates these new salaries and related employment benefits would increase State costs by \$107,000 annually.

There would also be an annual State expenditure decrease for public agencies resulting from the bill's provision that removes the mandatory awarding of attorney's fees to a requestor who prevails in any complaint proceeding against a public agency. The bill makes the award of attorney's fees in a dispute over access to a government record discretionary, rather than mandatory.

Additionally, the bill would increase State revenues by establishing annual registration fees for data brokers, as well as penalties for improper records requests made by data brokers or those making requests on behalf of and for the use of a data broker.

Finally, the OLS notes the overall expenditure and revenue impacts for any one public agency will depend on the change in the number of government records requests and the change in the number of complaints filed by requestors. The OLS does not have specific data regarding the government records requests handled by public agencies in the State.

*Section: State Government*

*Analyst: Ryan Brinkerhoff  
Deputy Counsel*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

## SENATE, No. 2930 STATE OF NEW JERSEY 221st LEGISLATURE

DATED: MAY 15, 2024

### SUMMARY

- Synopsis:** Makes various changes to process for access to government records; appropriates \$10 million.
- Type of Impact:** Annual State and local cost and revenue impacts.
- Agencies Affected:** Department of Community Affairs; State, local government, and school district agencies.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Annually Thereafter</u></b>
<b>State Cost Impact</b>	Increase of up to \$10 million	Indeterminate
<b>State Revenue Impact</b>	Indeterminate	Indeterminate
<b>Local Cost Impact</b>	Indeterminate	Indeterminate
<b>Local Revenue Impact</b>	Increase of up to \$4 million	Indeterminate

- The Office of Legislative Services (OLS) concludes that this bill will result in an indeterminate net impact on the finances of State and local public agencies.
- The OLS determines that the bill may result in a State cost increase of up to \$10 million in the first year the bill is in effect. If the full \$10 million is not expended in the first year, the residual amount will be spent in subsequent fiscal years until the full \$10 million is exhausted.
- The bill appropriates \$4 million for the Department of Community Affairs to provide grants to political subdivisions of the State to make government records available to the public electronically, including through shared services agreements. The State expenditure increase would lead to a concurrent revenue increase for counties, municipalities, and school districts that receive grants under the program.
- The bill also appropriates \$4 million to the Department of Community Affairs for the operations of the Government Records Council, and an additional \$2 million for the Government Records Council to implement certain provisions of the bill.

- Beyond the appropriated amount, the OLS is unable to estimate the direction and magnitude of the bill's net impact on State and local finances. This is so because of the countervailing effects of the bill, some examples of which include:
  - 1) Annual expenditure and revenue decreases for public agencies from an overall reduction in the number of requests to which an agency must respond and the number of records which must be produced.
  - 2) Potential annual expenditure increases for public agencies to make any adjustments and modifications necessary to meet accelerated records request fulfillment and complaint adjudication timelines.
  - 3) Annual State expenditure increase for a new salary of \$12,000 for each of the eight public members of the Government Records Council, pursuant to the bill.
  - 4) Annual expenditure decrease for public agencies resulting from the bill's provision that removes the mandatory awarding of attorney's fees to a requestor who prevails in any complaint proceeding against a public agency.

## **BILL DESCRIPTION**

This bill makes various changes to the law governing access to government records, commonly known as the open public records act. The bill appropriates funds to assist local public agencies in moving public records online, where members of the public can search for such documents.

Under the bill, records custodians are directed to withhold or redact records which include personal identifying information, information which the custodian has reason to believe would result in identity theft, and indecent or graphic images or video footage without prior written consent from the subject of the images or video footage.

The bill makes it a disorderly persons offense to make public indecent or graphic images or video footage obtained through a public record request, without the prior written consent of the subject of the image or video footage.

This bill revises the structure and membership of the Government Records Council and provides a salary to each of its members.

The bill also modifies several fees which may be charged by the custodian for certain records requests; makes the award of attorney's fees in a dispute over access to a government record discretionary unless the public agency is found to have unreasonably denied access, acted in bad faith, or knowingly and willfully violated the law; and shifts responsibility for fines and penalties awarded as the result of an improper denial of a request for a public record from the custodian to the public agency that employs the custodian.

The bill creates an extended timeline for records custodians to respond to requests from "commercial requestors" who intend to use the record to generate a profit. The bill authorizes a custodian to charge a special service fee to a commercial requestor who would like to receive the record in seven business days instead of 14 business days.

This bill requires the Administrative Office of the Courts, on behalf of the Superior Court, to provide the Government Records Council with a report of all cases related to the open public records act at the end of each court year.

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

None received.

### *OFFICE OF LEGISLATIVE SERVICES*

The OLS concludes that this bill will result in an indeterminate net impact on the finances of State and local public agencies.

The OLS determines that the bill may result in a State cost increase of up to \$10 million in the first year the bill is in effect. If the full \$10 million is not expended in the first year, the residual amount will be spent in subsequent fiscal years until the full \$10 million is exhausted.

The bill appropriates \$4 million for the Department of Community Affairs to provide grants to political subdivisions of the State to make government records available to the public electronically, including through shared services agreements. The State expenditure increase would lead to a concurrent revenue increase for counties, municipalities, and school districts that receive grants under the program.

The bill also appropriates \$4 million to the Department of Community Affairs for the operations of the Government Records Council, and an additional \$2 million for the Government Records Council to implement certain provisions of the bill.

Beyond the appropriated amount, the OLS is unable to estimate the direction and magnitude of the bill's net impact on State and local finances. This is so because of the countervailing effects of the bill, some of which are summarized in the following paragraphs.

The bill would result in annual expenditure and revenue decreases for public agencies from an overall reduction in the number of requests to which an agency must respond and the number of records which must be produced. For example, the bill permits requests for government records to be fulfilled by providing the requestor with the online location of the records requested, which would reduce agency costs. However, reducing the overall volume of records requests and removing the option for a public agency to charge the actual cost of duplicating a record would also reduce agency revenues.

The bill may also result in potential annual expenditure increases for certain public agencies to make any adjustments and modifications necessary to meet accelerated records request fulfillment and complaint adjudication timelines. Under the bill, the Government Records Council would be required to adjudicate all complaints that come before it within 90 days of the complaint's filing, with the possibility of extending the deadline by 45 days in certain circumstances. Also, the bill would require State and local election agencies to make records and information specified in the bill available within two business days of receiving the request.

Pursuant to the bill, there would be an annual State expenditure increase for a new salary of \$12,000 for each of the eight public members of the Government Records Council. The OLS estimates these new salaries and related employment benefits would increase State costs by \$107,000 annually.

The bill would increase State expenditures by shifting the responsibility for civil penalties awarded for the improper denial of a record request from the custodian to the public agency that employs the custodian.

There may also be an annual State expenditure decrease for public agencies resulting from the bill's provision that removes the mandatory awarding of attorney's fees to a requestor who prevails in any complaint proceeding against a public agency. The bill makes the award of attorney's fees

in a dispute over access to a government record discretionary, unless the public agency is found to have unreasonably denied access, acted in bad faith, or knowingly and willfully violated the law.

Additionally, the bill would increase State revenues by establishing fines for requestors who intentionally fail to certify that they have made a public record request for a commercial purpose.

The bill would also increase State expenditures by requiring the Administrative Office of the Courts to compile and provide the Government Records Council with a report detailing every case filed with the Superior Court related to the open public records act, at the end of each court year.

The bill may also increase State and local expenditures by making it a disorderly persons offense to make public indecent or graphic images or video footage obtained through a public record request, without the prior written consent of the subject of the image or video footage. Implementation of this provision would require increased monitoring and investigation to be conducted by law enforcement agencies, and prosecutions for violations. Disorderly persons offenses are adjudicated by municipal courts, in most circumstances.

Finally, the OLS notes the overall expenditure and revenue impacts for any one public agency will depend on the change in the number of government records requests and the change in the number of complaints filed by requestors. The OLS does not have specific data regarding the government records requests handled by public agencies in the State.

*Section: State Government*

*Analyst: Ryan Brinkerhoff  
Deputy Counsel*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# ASSEMBLY, No. 4045

## STATE OF NEW JERSEY

### 221<sup>st</sup> LEGISLATURE

INTRODUCED MARCH 4, 2024

**Sponsored by:**

**Assemblyman JOE DANIELSEN**

**District 17 (Middlesex and Somerset)**

**SYNOPSIS**

Makes various changes to process for access to government records; appropriates \$8 million.

**CURRENT VERSION OF TEXT**

As introduced.



A4045 DANIELSEN

2

1 AN ACT concerning access to government records, amending and  
2 supplementing various parts of the statutory law, and making an  
3 appropriation.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 1 of P.L.1963, c.73 (C.47:1A-1) is amended to read  
9 as follows:

10 1. The Legislature finds and declares it to be the public policy  
11 of this State that:

12 government records shall be readily accessible for inspection,  
13 copying, or examination by the citizens of this State, with certain  
14 exceptions, for the protection of the public interest, and any  
15 limitations on the right of access accorded by P.L.1963, c.73  
16 (C.47:1A-1 et seq.) as amended and supplemented, shall be  
17 construed in favor of the public's right of access;

18 all government records shall be subject to public access unless  
19 exempt from such access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as  
20 amended and supplemented; any other statute; resolution of either  
21 or both houses of the Legislature; regulation promulgated under the  
22 authority of any statute or Executive Order of the Governor;  
23 Executive Order of the Governor; Rules of Court; any federal law,  
24 federal regulation, or federal order;

25 a public agency has a responsibility and an obligation to  
26 safeguard from public access a citizen's personal information with  
27 which it has been entrusted, or information that might reasonably  
28 lead to disclosure of a person's personal information, when  
29 disclosure thereof would violate the citizen's reasonable expectation  
30 of privacy, or when the public agency has reason to believe that  
31 disclosure of such personal information may result in harassment,  
32 unwanted solicitation, identity theft, or opportunities for other  
33 criminal acts; and

34 nothing contained in P.L.1963, c.73 (C.47:1A-1 et seq.), as  
35 amended and supplemented, shall be construed as affecting in any  
36 way the common law right of access to any record, including but  
37 not limited to criminal investigatory records of a law enforcement  
38 agency.

39 (cf: P.L.2001, c.404, s.1)

40  
41 2. Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended to  
42 read as follows:

43 1. As used in P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and  
44 supplemented:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Biotechnology" means any technique that uses living  
2 organisms, or parts of living organisms, to make or modify  
3 products, to improve plants or animals, or to develop micro-  
4 organisms for specific uses; including the industrial use of  
5 recombinant DNA, cell fusion, and novel bioprocessing techniques.

6 "Child protective investigator in the Division of Child Protection  
7 and Permanency" means an employee of the Division of Child  
8 Protection and Permanency in the Department of Children and  
9 Families whose primary duty is to investigate reports of child abuse  
10 and neglect, or any other employee of the Department of Children  
11 and Families whose duties include investigation, response to, or  
12 review of allegations of child abuse and neglect.

13 "Commercial purpose" means the direct or indirect use of any  
14 part of a government record for sale, resale, solicitation, rent or  
15 lease of a service, or any use by which the user expects a profit  
16 either through commission, salary, or fee. "Commercial purpose"  
17 shall not include using, distributing, gathering, procuring,  
18 transmitting, compiling, editing, disseminating, or publishing of  
19 information or data by the news media, or any parent company,  
20 subsidiary, or affiliate of any news media, as defined by section 2 of  
21 P.L.1977, c.253 (C.2A:84A-21a), or by any news, journalistic,  
22 educational, scientific, scholarly, or governmental organization, or  
23 by any person authorized to act on behalf of a candidate committee,  
24 joint candidate committee, political committee, continuing political  
25 committee, political party committee, or legislative leadership  
26 committee, as defined by section 3 of P.L.1973, c.83 (C.19:44A-3),  
27 registered with the New Jersey Election Law Enforcement  
28 Commission.

29 "Constituent" means any State resident or other person  
30 communicating with a member of the Legislature.

31 "Criminal investigatory record" means a record which is not  
32 required by law to be made, maintained or kept on file that is held  
33 by a law enforcement agency which pertains to any criminal  
34 investigation or related civil enforcement proceeding.

35 "Custodian of a government record" or "custodian" means in the  
36 case of a municipality, the municipal clerk and in the case of any  
37 other public agency, the officer officially designated by formal  
38 action of that agency's director or governing body, as the case may  
39 be.

40 "Data broker" means a business that knowingly collects and sells  
41 to third parties the personal information of a consumer with whom  
42 the business does not have a direct relationship.

43 "Government record" or "record" means any paper, written or  
44 printed book, document, drawing, map, plan, photograph,  
45 microfilm, data processed or image processed document,  
46 information stored or maintained electronically or by sound-  
47 recording or in a similar device, or any copy thereof, that has been  
48 made, maintained or kept on file in the course of his or its official

1 business by any officer, commission, agency or authority of the  
2 State or of any political subdivision thereof, including subordinate  
3 boards thereof, or that has been received in the course of his or its  
4 official business by any such officer, commission, agency, or  
5 authority of the State or of any political subdivision thereof,  
6 including subordinate boards thereof. The terms shall not include  
7 inter-agency or intra-agency advisory, consultative, **[or]**  
8 deliberative, or draft material, including notes generated and used to  
9 prepare final reports, documents, or records.

10 A government record shall not include the following information  
11 which is deemed to be confidential for the purposes of P.L.1963,  
12 c.73 (C.47:1A-1 et seq.) as amended and supplemented:

13 information received by a member of the Legislature from a  
14 constituent or information held by a member of the Legislature  
15 concerning a constituent, including, but not limited to, information  
16 in written form or contained in any e-mail or computer data base, or  
17 in any telephone record whatsoever, unless it is information the  
18 constituent is required by law to transmit;

19 any memorandum, correspondence, notes, report or other  
20 communication prepared by, or for, the specific use of a member of  
21 the Legislature in the course of the member's official duties, except  
22 that this provision shall not apply to an otherwise publicly-  
23 accessible report which is required by law to be submitted to the  
24 Legislature or its members;

25 any copy, reproduction or facsimile of any photograph, negative  
26 or print, including instant photographs and videotapes of the body,  
27 or any portion of the body, of a deceased person, taken by or for the  
28 medical examiner at the scene of death or in the course of a post  
29 mortem examination or autopsy made by or caused to be made by  
30 the medical examiner except:

31 when used in a criminal action or proceeding in this State which  
32 relates to the death of that person,

33 for the use as a court of this State permits, by order after good  
34 cause has been shown and after written notification of the request  
35 for the court order has been served at least five days before the  
36 order is made upon the county prosecutor for the county in which  
37 the post mortem examination or autopsy occurred,

38 for use in the field of forensic pathology or for use in medical or  
39 scientific education or research, or

40 for use by any law enforcement agency in this State or any other  
41 state or federal law enforcement agency;

42 criminal investigatory records;

43 the portion of any criminal record concerning a person's  
44 detection, apprehension, arrest, detention, trial or disposition for  
45 unlawful manufacturing, distributing, or dispensing, or possessing  
46 or having under control with intent to manufacture, distribute, or  
47 dispense, marijuana or hashish in violation of paragraph (11) of  
48 subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or

1 hashish in violation of paragraph (12) of subsection b. of that  
2 section, or a violation of either of those paragraphs and a violation  
3 of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or  
4 subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for  
5 distributing, dispensing, or possessing, or having under control with  
6 intent to distribute or dispense, on or within 1,000 feet of any  
7 school property, or on or within 500 feet of the real property  
8 comprising a public housing facility, public park, or public  
9 building, or for obtaining, possessing, using, being under the  
10 influence of, or failing to make lawful disposition of marijuana or  
11 hashish in violation of paragraph (3) or (4) of subsection a., or  
12 subsection b., or subsection c. of N.J.S.2C:35-10, or for a violation  
13 of any of those provisions and a violation of N.J.S.2C:36-2 for  
14 using or possessing with intent to use drug paraphernalia with that  
15 marijuana or hashish;

16 victims' records, except that a victim of a crime shall have access  
17 to the victim's own records;

18 any written request by a crime victim for a record to which the  
19 victim is entitled to access as provided in this section, including,  
20 but not limited to, any law enforcement agency report, domestic  
21 violence offense report, and temporary or permanent restraining  
22 order;

23 personal firearms records, except for use by any person  
24 authorized by law to have access to these records or for use by any  
25 government agency, including any court or law enforcement  
26 agency, for purposes of the administration of justice;

27 personal identifying information received by the Division of Fish  
28 and Wildlife in the Department of Environmental Protection in  
29 connection with the issuance of any license authorizing hunting  
30 with a firearm【. For the purposes of this paragraph, personal  
31 identifying information shall include, but not be limited to, identity,  
32 name, address, social security number, telephone number, fax  
33 number, driver's license number, email address, or social media  
34 address of any applicant or licensee】;

35 trade secrets and proprietary commercial or financial information  
36 obtained from any source. For the purposes of this paragraph, trade  
37 secrets shall include 【data processing】 software, applications, and  
38 code obtained by a public body under a licensing agreement which  
39 prohibits its disclosure;

40 any record within the attorney-client privilege. This paragraph  
41 shall not be construed as exempting from access attorney or  
42 consultant bills or invoices except that such bills or invoices may be  
43 redacted to remove any information protected by the attorney-client  
44 privilege;

45 administrative or technical information regarding computer  
46 hardware, tablets, telephones, and devices, or software,

1 applications, and networks [which, if disclosed, would jeopardize  
2 computer security] , or related technologies;  
3 emergency or security information or procedures for any  
4 buildings or facility which, if disclosed, would jeopardize security  
5 of the building or facility or persons therein;  
6 security measures and surveillance techniques which, if  
7 disclosed, would create a risk to the safety of persons, property,  
8 electronic data or software;  
9 security alarm system activity and access reports, including  
10 video footage, for any public building, facility, or grounds unless  
11 the request identifies a specific incident that occurred, a specific  
12 date, and a limited time period at a particular public building,  
13 facility, or grounds;  
14 information which, if disclosed, would give an advantage to  
15 competitors or bidders, including detailed or itemized cost estimates  
16 prior to bid opening;  
17 information generated by or on behalf of public employers or  
18 public employees in connection with any sexual harassment  
19 complaint filed with a public employer or with any grievance filed  
20 by or against an individual or in connection with collective  
21 negotiations, including documents and statements of strategy or  
22 negotiating position;  
23 information related to strategies or negotiating positions that  
24 would unfairly prejudice or impair contract negotiations;  
25 information which is a communication between a public agency  
26 and its insurance carrier, administrative service organization or risk  
27 management office;  
28 information which is to be kept confidential pursuant to court  
29 order;  
30 any copy of form DD-214, NGB-22, or that form, issued by the  
31 United States Government, or any other certificate of honorable  
32 discharge, or copy thereof, from active service or the reserves of a  
33 branch of the Armed Forces of the United States, or from service in  
34 the organized militia of the State, that has been filed by an  
35 individual with a public agency, except that a veteran or the  
36 veteran's spouse or surviving spouse shall have access to the  
37 veteran's own records;  
38 any copy of an oath of allegiance, oath of office or any  
39 affirmation taken upon assuming the duties of any public office, or  
40 that oath or affirmation, taken by a current or former officer or  
41 employee in any public office or position in this State or in any  
42 county or municipality of this State, including members of the  
43 Legislative Branch, Executive Branch, Judicial Branch, and all law  
44 enforcement entities, except that the full name, title, and oath date  
45 of that person contained therein shall not be deemed confidential;  
46 that portion of any document which discloses the social security  
47 number, credit card number, **[unlisted]** debit card number, bank  
48 account information, month and day of birth, email address, any

1 telephone number, or driver license number of any person, or, in  
2 accordance with section 2 of P.L.2021, c.371 (C.47:1B-2), that  
3 portion of any document which discloses the home address, whether  
4 a primary or secondary residence, of any active, formerly active, or  
5 retired judicial officer, law enforcement officer, child protective  
6 investigator in the Division of Child Protection and Permanency, or  
7 prosecutor, or, as defined in section 1 of P.L.2021, c.371 (C.47:1B-  
8 1), any immediate family member thereof; except for use by any  
9 government agency, including any court or law enforcement  
10 agency, in carrying out its functions, or any private person or entity  
11 acting on behalf thereof, or any private person or entity seeking to  
12 enforce payment of court-ordered child support; except with respect  
13 to the disclosure of driver information by the New Jersey Motor  
14 Vehicle Commission as permitted by section 2 of P.L.1997, c.188  
15 (C.39:2-3.4); except with respect to the disclosure of information  
16 included in records and documents maintained by the Department of  
17 the Treasury in connection with the State's business registry  
18 programs; and except that a social security number contained in a  
19 record required by law to be made, maintained or kept on file by a  
20 public agency shall be disclosed when access to the document or  
21 disclosure of that information is not otherwise prohibited by State  
22 or federal law, regulation or order or by State statute, resolution of  
23 either or both houses of the Legislature, Executive Order of the  
24 Governor, rule of court or regulation promulgated under the  
25 authority of any statute or executive order of the Governor;

26 that portion of any document that discloses the personal  
27 identifying information of any person provided to a public agency  
28 for the sole purpose of receiving official notifications;

29 a list of persons identifying themselves as being in need of  
30 special assistance in the event of an emergency maintained by a  
31 municipality for public safety purposes pursuant to section 1 of  
32 P.L.2017, c.266 (C.40:48-2.67), and their personal identifying  
33 information; [and]

34 a list of persons identifying themselves as being in need of  
35 special assistance in the event of an emergency maintained by a  
36 county for public safety purposes pursuant to section 6 of P.L.2011,  
37 c.178 (C.App.A:9-43.13), and their personal identifying  
38 information;

39 that portion of any document that requires and would disclose  
40 personal identifying information of persons under the age of 18  
41 years, including names, except with respect to the disclosure of  
42 driver information by the New Jersey Motor Vehicle Commission  
43 as permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4) or the  
44 disclosure of driver information to any insurer or insurance support  
45 organization, or a self-insured entity, or its agents, employees, or  
46 contractors, for use in connection with claims investigation  
47 activities, antifraud activities, rating, or underwriting, and except  
48 with respect to the disclosure of voter information on voter and

1 election records pursuant to section 11 of P.L. , c. (C.) (pending  
2 before the Legislature as this bill);

3 personal identifying information disclosed on domestic animal  
4 permits, licenses, and registration;

5 structured reference data that helps to sort and identify attributes  
6 of the information it describes, referred to as metadata, or any  
7 extrapolation or compilation thereof;

8 New Jersey State Firemen's Association financial relief  
9 applications;

10 owner and maintenance manuals;

11 data classified under the "Health Insurance Portability and  
12 Accountability Act of 1996," Pub.L.104-191;

13 logs of telephone calls, emails, or texts; and

14 electronic or paper calendars for individuals.

15 A government record shall not include, with regard to any public  
16 institution of higher education, the following information which is  
17 deemed to be privileged and confidential:

18 pedagogical, scholarly and/or academic research records and/or  
19 the specific details of any research project conducted under the  
20 auspices of a public higher education institution in New Jersey,  
21 including, but not limited to, research, development information,  
22 testing procedures, or information regarding test participants,  
23 related to the development or testing of any pharmaceutical or  
24 pharmaceutical delivery system, except that a custodian may not  
25 deny inspection of a government record or part thereof that gives  
26 the name, title, expenditures, source and amounts of funding and  
27 date when the final project summary of any research will be  
28 available;

29 test questions, scoring keys and other examination data  
30 pertaining to the administration of an examination for employment  
31 or academic examination;

32 records of pursuit of charitable contributions or records  
33 containing the identity of a donor of a gift if the donor requires non-  
34 disclosure of the donor's identity as a condition of making the gift  
35 provided that the donor has not received any benefits of or from the  
36 institution of higher education in connection with such gift other  
37 than a request for memorialization or dedication;

38 valuable or rare collections of books or documents obtained by  
39 gift, grant, bequest or devise conditioned upon limited public  
40 access;

41 information contained on individual admission applications; and

42 information concerning student records or grievance or  
43 disciplinary proceedings against a student to the extent disclosure  
44 would reveal the identity of the student.

45 "Judicial officer" means any active, formerly active, or retired  
46 federal, state, county, or municipal judge, including a judge of the  
47 Tax Court and any other court of limited jurisdiction established,  
48 altered, or abolished by law, a judge of the Office of Administrative

1 Law, a judge of the Division of Workers' Compensation, and any  
2 other judge established by law who serves in the executive branch.

3 "Law enforcement agency" means a public agency, or part  
4 thereof, determined by the Attorney General to have law  
5 enforcement responsibilities.

6 "Law enforcement officer" means a person whose public duties  
7 include the power to act as an officer for the detection,  
8 apprehension, arrest, and conviction of offenders against the laws of  
9 this State.

10 "Member of the Legislature" means any person elected or  
11 selected to serve in the New Jersey Senate or General Assembly.

12 "Personal firearms record" means any information contained in a  
13 background investigation conducted by the chief of police, the  
14 county prosecutor, or the Superintendent of State Police, of any  
15 applicant for a permit to purchase a handgun, firearms identification  
16 card license, or firearms registration; any application for a permit to  
17 purchase a handgun, firearms identification card license, or firearms  
18 registration; any document reflecting the issuance or denial of a  
19 permit to purchase a handgun, firearms identification card license,  
20 or firearms registration; and any permit to purchase a handgun,  
21 firearms identification card license, or any firearms license,  
22 certification, certificate, form of register, or registration statement.  
23 For the purposes of this paragraph, information contained in a  
24 background investigation shall include, but not be limited to,  
25 identity, name, address, social security number, [phone] telephone  
26 number, fax number, driver's license number, email address, or  
27 social media address of any applicant, licensee, registrant or permit  
28 holder.

29 "Personal identifying information" means information that may  
30 be used, alone or in conjunction with any other information, to  
31 identify a specific individual. For purposes of this act, personal  
32 identifying information shall include, but shall not be limited to, the  
33 following data elements: name, social security number, credit card  
34 number, debit card number, bank account information, month and  
35 day of birth, email address, any telephone number, the street  
36 address portion of any person's primary or secondary home address,  
37 or driver license number of any person.

38 "Public agency" or "agency" means any of the principal  
39 departments in the Executive Branch of State Government, and any  
40 division, board, bureau, office, commission or other instrumentality  
41 within or created by such department; the Legislature of the State  
42 and any office, board, bureau or commission within or created by  
43 the Legislative Branch; and any independent State authority,  
44 commission, instrumentality or agency. The terms also mean any  
45 political subdivision of the State or combination of political  
46 subdivisions, and any division, board, bureau, office, commission or  
47 other instrumentality within or created by a political subdivision of  
48 the State or combination of political subdivisions, and any

1 independent authority, commission, instrumentality or agency  
2 created by a political subdivision or combination of political  
3 subdivisions.

4 "Victim of a crime" means a person who has suffered personal or  
5 psychological injury or death or incurs loss of or injury to personal  
6 or real property as a result of a crime, or if such a person is  
7 deceased or incapacitated, a member of that person's immediate  
8 family.

9 "Victim's record" means an individually identifiable file or  
10 document held by a victims' rights agency which pertains directly to  
11 a victim of a crime except that a victim of a crime shall have access  
12 to the victim's own records.

13 "Victims' rights agency" means a public agency, or part thereof,  
14 the primary responsibility of which is providing services, including,  
15 but not limited to, food, shelter, or clothing, medical, psychiatric,  
16 psychological or legal services or referrals, information and referral  
17 services, counseling and support services, or financial services to  
18 victims of crimes, including victims of sexual assault, domestic  
19 violence, violent crime, child endangerment, child abuse or child  
20 neglect, and the Victims of Crime Compensation Board, established  
21 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as  
22 the Victims of Crime Compensation Office pursuant to P.L.2007,  
23 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.  
24 (cf: P.L.2023, c.113, s.1)

25

26 3. Section 6 of P.L.2001, c.404 (C.47:1A-5) is amended to read  
27 as follows:

28 6. a. The custodian of a government record shall permit the  
29 record to be inspected, examined, and copied by any person during  
30 regular business hours; or in the case of a municipality having a  
31 population of 5,000 or fewer according to the most recent federal  
32 decennial census, a board of education having a total district  
33 enrollment of 500 or fewer, or a public authority having less than  
34 \$10 million in assets, during not less than six regular business hours  
35 over not less than three business days per week or the entity's  
36 regularly-scheduled business hours, whichever is less; unless a  
37 government record is exempt from public access by: P.L.1963, c.73  
38 (C.47:1A-1 et seq.) as amended and supplemented; any other  
39 statute; resolution of either or both houses of the Legislature;  
40 regulation promulgated under the authority of any statute or  
41 Executive Order of the Governor; Executive Order of the Governor;  
42 Rules of Court; any federal law; federal regulation; or federal order.  
43 Prior to allowing access to any government record, the custodian  
44 thereof shall redact from that record any information which  
45 discloses the social security number, credit card number, **[unlisted]**  
46 telephone number, or driver license number of any person, or, in  
47 accordance with section 2 of P.L.2021, c.371 (C.47:1B-2), the home  
48 address, whether a primary or secondary residence, of any active,

1 formerly active, or retired judicial officer, prosecutor, law  
2 enforcement officer, or child protective investigator in the Division  
3 of Child Protection and Permanency, or, as defined in section 1 of  
4 P.L.2021, c.371 (C.47:1B-1), any immediate family member  
5 thereof; except for use by any government agency, including any  
6 court or law enforcement agency, in carrying out its functions, or  
7 any private person or entity acting on behalf thereof, or any private  
8 person or entity seeking to enforce payment of court-ordered child  
9 support; except with respect to the disclosure of driver information  
10 by the New Jersey Motor Vehicle Commission as permitted by  
11 section 2 of P.L.1997, c.188 (C.39:2-3.4); and except that a social  
12 security number contained in a record required by law to be made,  
13 maintained or kept on file by a public agency shall be disclosed  
14 when access to the document or disclosure of that information is not  
15 otherwise prohibited by State or federal law, regulation or order or  
16 by State statute, resolution of either or both houses of the  
17 Legislature, Executive Order of the Governor, rule of court or  
18 regulation promulgated under the authority of any statute or  
19 executive order of the Governor. Prior to allowing access to any  
20 government record, the custodian shall redact from that record any  
21 information which discloses, or which might reasonably lead to  
22 disclosure of the telephone number, email address, or any medical,  
23 financial, or personal information of a member of the public when  
24 the disclosure thereof would violate the citizen's reasonable  
25 expectation of privacy or when the public agency has a reason to  
26 believe that disclosure of such personal information may result in  
27 harassment, unwanted solicitation, identity theft, or opportunities  
28 for other criminal acts. Except where an agency can demonstrate an  
29 emergent need, a regulation that limits access to government  
30 records shall not be retroactive in effect or applied to deny a request  
31 for access to a government record that is pending before the agency,  
32 the council or a court at the time of the adoption of the regulation.

33 b. (1) A copy or copies of a government record may be  
34 purchased by any person upon payment of the fee prescribed by law  
35 or regulation.

36 Except as otherwise provided by law or regulation and except as  
37 provided in paragraph (2) of this subsection, the fee assessed for the  
38 duplication of a government record embodied in the form of printed  
39 matter shall be \$0.05 per letter size page or smaller, and \$0.07 per  
40 legal size page or larger. **【**If a public agency can demonstrate that  
41 its actual costs for duplication of a government record exceed the  
42 foregoing rates, the public agency shall be permitted to charge the  
43 actual cost of duplicating the record. The actual cost of duplicating  
44 the record, upon which all copy fees are based, shall be the cost of  
45 materials and supplies used to make a copy of the record, but shall  
46 not include the cost of labor or other overhead expenses associated  
47 with making the copy except as provided for in subsection c. of this  
48 section.**】** Access to electronic records and non-printed materials

1 shall be provided free of charge , but the public agency may charge  
2 for the actual costs of any needed supplies such as computer discs.  
3 No fee shall be charged if the request is completed by directing the  
4 requestor to the requested government record that is available on  
5 the public agency's website or the website of another public agency.

6 (2) No fee shall be charged to a victim of a crime for a copy or  
7 copies of a record to which the crime victim is entitled to access, as  
8 provided in section 1 of P.L.1995, c.23 (C.47:1A-1.1).

9 c. Whenever the nature, format, manner of collation, or volume  
10 of a government record embodied in the form of printed matter to  
11 be inspected, examined, or copied pursuant to this section is such  
12 that the record cannot be reproduced by ordinary document copying  
13 equipment in ordinary business size or involves an extraordinary  
14 expenditure of time and effort to accommodate the request, the  
15 public agency may charge, in addition to the actual cost of  
16 duplicating the record, a special service charge that **【shall be**  
17 **reasonable and】** shall be based upon the actual direct cost of  
18 providing the copy or copies **【**; provided, however, that in the case  
19 of a municipality, rates for the duplication of particular records  
20 when the actual cost of copying exceeds the foregoing rates shall be  
21 established in advance by ordinance**】**, and such special service  
22 charge shall be presumed to be reasonable.

23 The requestor shall have the opportunity to review and object to  
24 **【the】** any fee or charge prior to it being incurred.

25 d. A custodian shall permit access to a government record and  
26 provide a copy thereof in the medium or format requested if the  
27 public agency maintains the record in that medium or format. If the  
28 public agency does not maintain the record in the medium or format  
29 requested, the custodian **【shall】**, at the custodian's discretion, may  
30 either convert the record to the medium or format requested or  
31 provide a copy in some other meaningful medium or format. **【If a**  
32 request is for a record: (1) in a medium not routinely used by the  
33 agency; (2) not routinely developed or maintained by an agency; or  
34 (3) requiring a substantial amount of manipulation or programming  
35 of information technology, the agency may charge, in addition to  
36 the actual cost of duplication, a special charge that shall be  
37 reasonable and shall be based on the cost for any extensive use of  
38 information technology, or for the labor cost of personnel providing  
39 the service, that is actually incurred by the agency or attributable to  
40 the agency for the programming, clerical, and supervisory  
41 assistance required, or both.**】** If the public agency does not  
42 maintain the record in the electronic medium or format requested,  
43 the custodian shall be under no obligation to convert the record to  
44 the electronic medium or format requested but shall, at a minimum,  
45 provide a copy in the format maintained by the public agency.

46 e. Immediate access ordinarily shall be granted to budgets,  
47 bills, vouchers, contracts, including collective negotiations

1 agreements and individual employment contracts, and public  
2 employee salary and overtime information. Immediate access to  
3 government records shall not be required to be granted for  
4 documents over 12 months old.

5 Government records shall be made available to the public on a  
6 publicly available website to the extent feasible. A public agency  
7 may enter into shared services agreements for providing certain  
8 government records electronically.

9 If the government record is readily available on a public  
10 agency's website, the custodian may require the requestor to obtain  
11 the record from the website, which shall contain a search bar feature  
12 on its home page. The custodian shall provide the requestor with  
13 directions to assist in finding the record on the website, including  
14 providing the website URL address and the location on the website  
15 of the search bar, menu button, tab, link, landing page or equivalent,  
16 which contains the requested record. The request shall be deemed  
17 fulfilled upon notification by the custodian to the requestor of the  
18 availability and location on the website of the requested  
19 information.

20 f. The custodian of a public agency shall adopt a form for the  
21 use of any person who requests access to a government record held  
22 or controlled by the public agency. The form shall provide space  
23 for the name, address, email address and **[phone]** telephone number  
24 of the requestor and a brief description of the government record  
25 sought. A request shall be submitted by a requestor in the form  
26 adopted by the custodian and the custodian may deny a request that  
27 is not submitted in the form adopted by the custodian. A request  
28 may be submitted anonymously provided, however, that anonymous  
29 requestors shall not be permitted to institute proceedings pursuant  
30 to section 7 of P.L.2001, c.404 (C.47:1A-6).

31 The form also shall include space for a requestor to certify  
32 whether the government record will be used by that requestor or  
33 another person for a commercial purpose, and the requestor shall be  
34 required to provide this information for the request to be fulfilled.

35 All requests by a data broker or a requestor who is making a  
36 request on behalf of and for the use of a data broker shall be denied.  
37 The form also shall include space for a requestor to certify that the  
38 requestor is not a data broker or is not making the request on behalf  
39 of or for the use of a data broker, and the requestor shall be required  
40 to provide this information for the request to be fulfilled.

41 Data obtained through a records request shall not be sold.

42 The form shall include space for the custodian to indicate which  
43 record will be made available, when the record will be available,  
44 and the fees to be charged. The form shall also include the  
45 following: (1) specific directions and procedures for requesting a  
46 record; (2) a statement as to whether prepayment of fees or a  
47 deposit is required; (3) the time period within which the public  
48 agency is required by P.L.1963, c.73 (C.47:1A-1 et seq.) as

1 amended and supplemented, to make the record available; (4) a  
2 statement of the requestor's right to challenge a decision by the  
3 public agency to deny access and the procedure for filing an appeal;  
4 (5) space for the custodian to list reasons if a request is denied in  
5 whole or in part; (6) space for the requestor to sign and date the  
6 form; (7) space for the custodian to sign and date the form if the  
7 request is fulfilled or denied. The custodian may require a deposit  
8 against costs for reproducing documents sought through **【an**  
9 **anonymous】** a request whenever the custodian anticipates that the  
10 information thus requested will cost in excess of \$5 to reproduce.

11 Custodians shall provide directions on how to submit requests  
12 for government records, including any required forms, on the public  
13 agency's website.

14 Custodians shall be permitted to provide an electronic response  
15 to any electronic records request if government records are  
16 available electronically.

17 g. A request for access to a government record shall be in  
18 writing and hand-delivered, mailed, transmitted electronically, or  
19 otherwise conveyed to the appropriate custodian. A public agency  
20 may make available to the public on its website an online form,  
21 portal, or software for transmitting requests electronically. A  
22 custodian shall promptly comply with a request to inspect, examine,  
23 copy, or provide a copy of a government record. If the custodian is  
24 unable to comply with a request for access, the custodian shall  
25 indicate the specific basis therefor on the request form and promptly  
26 return it to the requestor. The custodian shall sign and date the  
27 form and provide the requestor with a copy thereof. If the  
28 custodian of a government record asserts that part of a particular  
29 record is exempt from public access pursuant to P.L.1963, c.73  
30 (C.47:1A-1 et seq.) as amended and supplemented, the custodian  
31 shall delete or excise from a copy of the record that portion which  
32 the custodian asserts is exempt from access and shall promptly  
33 permit access to the remainder of the record. **【If the government**  
34 **record requested is temporarily unavailable because it is in use or in**  
35 **storage, the custodian shall so advise the requestor and shall make**  
36 **arrangements to promptly make available a copy of the record.】** If  
37 a request for access to a government record would substantially  
38 disrupt agency operations, the custodian may deny access to the  
39 record after attempting to reach a reasonable solution with the  
40 requestor that accommodates the interests of the requestor and the  
41 agency.

42 A party to a legal proceeding may not request a government  
43 record if the record sought is the subject of a court order in the legal  
44 proceeding or if compliance would otherwise be unreasonable,  
45 oppressive, or duplicative of already pending discovery request  
46 made in that legal proceeding, and a custodian shall not be required  
47 to complete such a request. The requestor shall be required to  
48 certify whether the government record is being sought in connection

1 with a legal proceeding and identify the proceeding for the request  
2 to be fulfilled. For purposes of this provision, a party to a legal  
3 proceeding shall include a party in interest, any attorney  
4 representing that party, and any person acting as an agent for or on  
5 behalf of that party.

6 A custodian shall not be required to complete a request including  
7 for, but not limited to, mail, email, text messages, correspondence,  
8 or social media postings and messages, if the request does not  
9 identify specific individuals or accounts to be searched and is not  
10 confined to a discrete and limited time period and a specific subject  
11 matter, or if the custodian determines that the request would require  
12 research and the collection of information from the contents of  
13 government records and the creation of new government records  
14 setting forth that research and information.

15 h. Any officer or employee of a public agency who receives a  
16 request for access to a government record shall forward the request  
17 to the custodian of the record or direct the requestor to the  
18 custodian of the record. The request shall not be considered  
19 submitted until it is received by the custodian of records.

20 i. (1) Unless a shorter time period is otherwise provided by  
21 statute, regulation, or executive order, a custodian of a government  
22 record shall grant access to a government record or deny a request  
23 for access to a government record as soon as possible, but not later  
24 than seven business days after receiving the request, or 14 business  
25 days if the request is for a commercial purpose or if the records  
26 have to be reviewed by the public agency for the purpose of the  
27 agency's compliance with P.L.2020, c.125 (C.47:1B-1 et seq.), but  
28 the custodian shall notify the requestor of the additional response  
29 time within seven business days, provided that the record is  
30 currently available and not in storage or archived. The response  
31 time periods of seven or 14 business days, as established in this  
32 subsection, shall be an additional seven business days longer if the  
33 public agency is a fire district which employs one or fewer full-time  
34 employees who serve as custodians.

35 In the event a records custodian is unable to fulfill a records  
36 request due to unforeseen circumstances or circumstances that  
37 otherwise reasonably necessitate additional time to fulfill the  
38 records request, the custodian shall be entitled to a reasonable  
39 extension of any response deadline and shall notify the requestor of  
40 the time extension within seven business days after receiving the  
41 request.

42 In the event a custodian fails to respond within seven business  
43 days or 14 business days, as appropriate, after receiving a request,  
44 the failure to respond shall be deemed a denial of the request, unless  
45 the requestor has elected not to accurately identify themselves or to  
46 provide [a name,] an accurate address, email address, or telephone  
47 number [, or other means of contacting the requestor]. If the  
48 requestor has elected not to accurately identify themselves or to

1 provide **[a name,]** an accurate address, email address, or telephone  
2 number, **[or other means of contacting the requestor,]** the custodian  
3 shall not be required to respond until the requestor **[reappears**  
4 **before]** contacts the custodian seeking a response to the original  
5 request.

6 If the government record is in storage or archived, the requestor  
7 shall be so advised within seven or 14 business days, as appropriate,  
8 after the custodian receives the request. The requestor shall be  
9 advised by the custodian when the record can be made available,  
10 which shall be no more than 21 business days from the date the  
11 requestor is so advised. If the record is not made available by that  
12 time, access shall be deemed denied.

13 A public agency shall not be considered to be in possession of a  
14 public record that is created or maintained by another public agency  
15 and made available to the public agency either by remote access to  
16 a computer network or by distribution as a courtesy copy. A  
17 records custodian of a public agency that receives a request for such  
18 a record, shall not be obligated to provide the record to the  
19 requestor and shall direct the requestor within seven business days  
20 to the public agency that, to the best of their knowledge, created or  
21 maintains the requested record, at which time the request shall be  
22 considered completed.

23 The custodian shall not be required to complete an identical  
24 request for access to a government record from the same requestor  
25 if the information has not changed.

26 A requestor shall have 14 business days to retrieve the  
27 government records following notice from the custodian that the  
28 request has been completed and the records are available.

29 (2) During a period declared pursuant to the laws of this State as  
30 a state of emergency, public health emergency, or state of local  
31 disaster emergency, the deadlines by which to respond to a request  
32 for, or grant or deny access to, a government record under  
33 paragraph (1) of this subsection or subsection e. of this section shall  
34 not apply, provided, however, that the custodian of a government  
35 record shall make a reasonable effort, as the circumstances permit,  
36 to respond to a request for access to a government record within  
37 seven business days or 14 business days, as appropriate, or as soon  
38 as possible thereafter.

39 j. A custodian shall **[post prominently in public view in the**  
40 **part or parts of the office or offices of the custodian that are open to**  
41 **or frequented by the public a statement that sets forth in clear,**  
42 **concise and specific terms the]** include information on the public  
43 agency's website and public records request form regarding a  
44 requestor's right to appeal a denial of, or failure to provide, access  
45 to a government record [by any person for inspection, examination,  
46 or copying or for purchase of copies thereof] and the procedure by  
47 which an appeal may be filed, which shall include the website

1 address and toll-free information line phone number of the  
2 Government Records Council.

3 k. The files maintained by the Office of the Public Defender  
4 that relate to the handling of any case shall be considered  
5 confidential and shall not be open to inspection by any person  
6 unless authorized by law, court order, or the State Public Defender.  
7 (cf: P.L.2023, c.113, s.2)

8  
9 4. Section 7 of P.L.2001, c.404 (C.47:1A-6) is amended to read  
10 as follows:

11 7. A person who is denied access to a government record by  
12 the custodian of the record, at the option of the requestor who is  
13 accurately identified by name, may, within 45 days of the date of  
14 denial:

15 institute a proceeding to challenge the custodian's decision by  
16 filing an action in Superior Court which shall be heard in the  
17 vicinage where it is filed by a Superior Court Judge who has been  
18 designated to hear such cases because of that judge's knowledge  
19 and expertise in matters relating to access to government records; or  
20 in lieu of filing an action in Superior Court, file a complaint with  
21 the Government Records Council established pursuant to section 8  
22 of P.L.2001, c.404 (C.47:1A-7).

23 The right to institute any proceeding under this section shall be  
24 solely that of the requestor. Any such proceeding shall proceed in a  
25 summary or expedited manner. The public agency shall have the  
26 burden of proving that the denial of access is authorized by law. If  
27 it is determined that access has been improperly denied, the court or  
28 **[agency head]** Government Records Council shall order that access  
29 be allowed. A requestor who prevails in any proceeding **[shall]**  
30 may be entitled to a reasonable attorney's fee. In determining  
31 whether to award attorney's fees, the court or the Government  
32 Records Council may consider whether the public agency is found  
33 to have knowingly and willfully violated P.L.1963, c.73 (C.47:1A-1  
34 et seq.), or to have unreasonably denied access.

35 If the records sought are produced by the public agency within  
36 seven business days of service of an action in Superior Court or a  
37 complaint before the Government Records Council, the matter shall  
38 be dismissed without prejudice and the requestor may be entitled to  
39 a reasonable attorney's fee if the custodian knew or should have  
40 known that the denial of access violated P.L.1963, c.73 (C.47:1A-1  
41 et seq.).

42 (cf: P.L.2001, c.404, s.7)

43

44 5. Section 8 of P.L.2001, c.404 (C.47:1A-7) is amended to read  
45 as follows:

46 8. a. (1) There is established in the Department of Community  
47 Affairs a Government Records Council. The council shall consist  
48 of the Commissioner of Community Affairs or the commissioner's

1 designee, [the Commissioner of Education or the commissioner's  
2 designee, and three public members appointed by the Governor,  
3 with the advice and consent of the Senate, not more than two of  
4 whom shall be of the same political party. The three public  
5 members shall serve during the term of the Governor making the  
6 appointment and until the appointment of a successor] who shall  
7 serve as Chair, and eight public members appointed as follows: four  
8 appointed by the Governor with the advice and consent of the  
9 Senate; two directly appointed by the Governor from persons  
10 recommended by the President of the Senate; and two directly  
11 appointed by the Governor from persons recommended by the  
12 Speaker of the General Assembly. Each public member shall serve  
13 for a term of five years and until a successor is appointed and  
14 qualified.

15 (2) Notwithstanding any provision of subsection a. (1) of this  
16 section, or any other law, rule, or regulation to the contrary, within  
17 90 days following the enactment date of P.L. , c. (pending  
18 before the Legislature as this bill), the Governor shall directly  
19 appoint eight public members to the council, each of whom shall  
20 serve for a term of three years and until a successor is appointed  
21 and qualified, as follows: two from persons recommended by the  
22 President of the Senate, two from persons recommended by the  
23 Speaker of the General Assembly, and four appointed at the sole  
24 discretion of the Governor. The terms of office of the members of  
25 the council serving on the date of enactment of P.L. , c (pending  
26 before the Legislature as this bill), shall expire upon the Governor's  
27 direct appointment of the new members pursuant to this subsection.

28 (3) A public member shall not hold any other State or local  
29 elected [or appointed] office [or employment] while serving as a  
30 member of the council. A public member shall [not receive a  
31 salary for service on the council but shall be reimbursed for  
32 reasonable and necessary expenses associated with serving on the  
33 council and may receive such per diem payment as may be provided  
34 in the annual appropriations act] receive a salary equivalent to that  
35 provided by law for a public member of the Local Finance Board of  
36 the Division of Local Government Services in the Department of  
37 Community Affairs. A member may be removed by the Governor  
38 for cause. Vacancies among the public members shall be filled [in  
39 the same manner in which the original appointment was made. The  
40 members of the council shall choose one of the public members to  
41 serve as the council's chair.] by appointment by the Governor,  
42 according to the provisions of subsection a. of this section, and for  
43 the remainder of the unexpired term. The council may employ an  
44 executive director and such professional and clerical staff as it  
45 deems necessary and may call upon the Department of Community  
46 Affairs for such assistance as it deems necessary and may be  
47 available to it.

- 1       b. The Government Records Council shall:
- 2       establish an informal mediation program to facilitate the
- 3       resolution of disputes regarding access to government records;
- 4       receive, hear, review and adjudicate a complaint filed by any
- 5       person concerning a denial of access to a government record by a
- 6       records custodian;
- 7       issue advisory opinions, on its own initiative, as to whether a
- 8       particular type of record is a government record which is accessible
- 9       to the public;
- 10      prepare guidelines and an informational pamphlet for use by
- 11      records custodians in complying with the law governing access to
- 12      public records;
- 13      prepare an informational pamphlet explaining the public's right
- 14      of access to government records and the methods for resolving
- 15      disputes regarding access, which records custodians shall make
- 16      available to persons requesting access to a government record;
- 17      prepare lists for use by records custodians of the types of records
- 18      in the possession of public agencies which are government records;
- 19      make training opportunities available for records custodians and
- 20      other public officers and employees which explain the law
- 21      governing access to public records; and
- 22      operate an informational website and a toll-free helpline staffed
- 23      by knowledgeable employees of the council during regular business
- 24      hours which shall enable any person, including records custodians,
- 25      to call for information regarding the law governing access to public
- 26      records and allow any person to request mediation or to file a
- 27      complaint with the council when access has been denied【;】.
- 28      In implementing the provisions of 【subsections d. and e. of】 this
- 29      section, the council shall: act, to the maximum extent possible, at
- 30      the convenience of the parties; utilize video conferencing,
- 31      teleconferencing, faxing of documents, e-mail and similar forms of
- 32      modern communication; conduct virtual meetings and hearings,
- 33      when practical and at the discretion of the council; and when in-
- 34      person meetings are necessary, send representatives to meet with
- 35      the parties at a location convenient to the parties.
- 36      The council shall periodically review the information and format
- 37      of its website and make such adjustments as shall be deemed
- 38      necessary to ensure that the information is clearly presented,
- 39      accessible, and useful for the general public. The council shall
- 40      conduct such an initial review within six months following the
- 41      effective date of P.L. , c. (pending before the Legislature as this
- 42      bill).
- 43      c. At the request of the council, a public agency shall produce
- 44      documents and ensure the attendance of witnesses with respect to
- 45      the council's investigation of any complaint or the holding of any
- 46      hearing.
- 47      d. Upon receipt of a written complaint signed by any person
- 48      alleging that a custodian of a government record has improperly

1 denied that person access to a government record, the council shall  
2 offer the parties the opportunity to resolve the dispute through  
3 mediation. Mediation shall enable a person who has been denied  
4 access to a government record and the public agency that employs  
5 the records custodian who denied or failed to provide access thereto  
6 to attempt to mediate the dispute through a process whereby a  
7 neutral mediator, who shall be trained in mediation selected by the  
8 council, acts to encourage and facilitate the resolution of the  
9 dispute. Mediation shall be an informal, nonadversarial process  
10 having the objective of helping the parties reach a mutually  
11 acceptable, voluntary agreement. The mediator shall assist the  
12 parties in identifying issues, foster joint problem solving, and  
13 explore settlement alternatives.

14 e. If any party declines mediation or if mediation fails to  
15 resolve the matter to the satisfaction of all parties, the council shall  
16 initiate an investigation concerning the facts and circumstances set  
17 forth in the complaint. The council shall make a determination as  
18 to whether the complaint is within its jurisdiction or frivolous or  
19 without any reasonable factual basis. The council may assign staff  
20 attorneys to conduct the investigation, present findings, and make  
21 recommendations to the council. If the council shall conclude that  
22 the complaint is outside its jurisdiction, frivolous, or without factual  
23 basis, it shall reduce that conclusion to writing and transmit a copy  
24 thereof to the complainant and to the public agency that employs  
25 the records custodian against whom the complaint was filed.  
26 Otherwise, the council shall notify the public agency that employs  
27 the records custodian against whom the complaint was filed of the  
28 nature of the complaint and the facts and circumstances set forth  
29 therein. The public agency that employs the records custodian shall  
30 have the opportunity to present the board with any statement or  
31 information concerning the complaint which the **【custodian】**  
32 agency wishes. If the council is able to make a determination as to  
33 a record's accessibility based upon the complaint and the  
34 **【custodian's】** agency's response thereto, it shall reduce that  
35 conclusion to writing and transmit a copy thereof to the  
36 complainant and to the public agency that employs the records  
37 custodian against whom the complaint was filed. If the council is  
38 unable to make a determination as to a record's accessibility based  
39 upon the complaint and the **【custodian's】** agency's response thereto,  
40 the council shall conduct a hearing on the matter in conformity with  
41 the rules and regulations provided for hearings by a State agency in  
42 contested cases under the "Administrative Procedure Act,"  
43 P.L.1968, c.410 (C.52:14B-1 et seq.), insofar as they may be  
44 applicable and practicable. The council shall, by a majority vote of  
45 its members, render a decision as to whether the record which is the  
46 subject of the complaint is a government record which must be  
47 made available for public access pursuant to P.L.1963, c.73  
48 (C.47:1A-1 et seq.) as amended and supplemented. If the council

1 determines, by a majority vote of its members, that a custodian  
2 **【has】** is found to have knowingly and willfully violated P.L.1963,  
3 c.73 (C.47:1A-1 et seq.), as amended and supplemented, and 【is  
4 found】 to have unreasonably denied access under the totality of the  
5 circumstances, the council may impose the penalties provided for in  
6 section 12 of P.L.2001, c.404 (C.47:1A-11) on the public agency  
7 that employs the custodian. A decision of the council may be  
8 appealed to the Appellate Division of the Superior Court. Such  
9 appeals shall be filed within 30 days from the date the council  
10 renders a decision. A decision of the council shall not have value as  
11 a precedent for any case initiated in Superior Court pursuant to  
12 section 7 of P.L.2001, c.404 (C.47:1A-6). All proceedings of the  
13 council pursuant to this subsection shall be conducted as  
14 expeditiously as possible.

15 Beginning 18 months following the effective date of P.L. , c.  
16 (pending before the Legislature as this bill), the council shall  
17 adjudicate all complaints that come before it within 90 days of the  
18 complaint's filing, with the ability to extend for 30 days for good  
19 cause, exclusive of any time period during which the parties are  
20 engaged in a mediation process pursuant to this section. The  
21 council shall make such organizational adjustments and modify its  
22 procedures as it deems necessary to ensure that complaints are  
23 adjudicated in such a timeframe.

24 f. The council shall not charge any party a fee in regard to  
25 actions filed with the council. The council shall be subject to the  
26 provisions of the "Open Public Meetings Act," P.L.1975, c.231  
27 (C.10:4-6), except that the council may go into closed session  
28 during that portion of any proceeding during which the contents of a  
29 contested record would be disclosed. **【A requestor who prevails in**  
30 **any proceeding shall be entitled to a reasonable attorney's fee.】**

31 g. The council shall not have jurisdiction over the Judicial or  
32 Legislative Branches of State Government or any agency, officer, or  
33 employee of those branches.  
34 (cf: P.L.2001, c.404, s.8)

35  
36 6. Section 12 of P.L.2001, c.404 (C.47:1A-11) is amended to  
37 read as follows:

38 12. a. **【A】** If a public official, officer, employee, or custodian  
39 【who】 is found to have knowingly and willfully 【violates】 violated  
40 P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented,  
41 and 【is found】 to have unreasonably denied access under the  
42 totality of the circumstances, the public agency that employs the  
43 custodian, officer, employee, or official shall be subject to a civil  
44 penalty of \$1,000 for an initial violation, \$2,500 for a second  
45 violation that occurs within 10 years of an initial violation, and  
46 \$5,000 for a third violation that occurs within 10 years of an initial  
47 violation. 【This penalty】 The penalties authorized pursuant to this

1 subsection may be imposed by the courts or by the Government  
2 Records Council.

3 b. A requestor who is found to have sold the data obtained by a  
4 records request, who is found to have intentionally failed to certify  
5 that a records request is for a commercial purpose, who is a data  
6 broker, or who is making the request on behalf of and for the use of  
7 a data broker, and is found to have intentionally certified that the  
8 requestor is not a data broker or is not making the request on behalf  
9 of and for the use of a data broker, shall be subject to a civil penalty  
10 of \$1,000 for the first offense, \$2,500 for the second offense, and  
11 \$5,000 for each subsequent offense. The penalties may be imposed  
12 by the courts.

13 c. These penalties shall be collected and enforced in  
14 proceedings in accordance with the "Penalty Enforcement Law of  
15 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court  
16 governing actions for the collection of civil penalties. The Superior  
17 Court shall have jurisdiction of proceedings for the collection and  
18 enforcement of the penalty imposed by this section.

19 d. Appropriate disciplinary proceedings may be initiated  
20 against a public official, officer, employee or custodian against  
21 whom a penalty has been imposed.

22 (cf: P.L.2001, c.404, s.12)

23

24 7. Section 2 of P.L.2021, c.371 (C.47:1B-2) is amended to read  
25 as follows:

26 2. a. An authorized person seeking the redaction or nondisclosure  
27 of the home address of any covered person from certain records and  
28 Internet postings consistent with section 2 of P.L.2015, c.226  
29 (C.47:1-17), section 1 of P.L.1995, c.23 (C.47:1A-1.1), or section 6  
30 of P.L.2001, c.404 (C.47:1A-5) shall submit a request in accordance  
31 with section 1 of P.L.2021, c.371 (C.47:1B-1) to the Office of  
32 Information Privacy through the secure portal established by the  
33 office. The address shall only be subject to redaction or  
34 nondisclosure if a request is submitted to and approved by the  
35 Director of the Office of Information Privacy.

36 b. (1) A public agency shall redact or cease to disclose, in  
37 accordance with section 6 of P.L.2001, c.404 (C.47:1A-5) and  
38 section 1 of P.L.1995, c.23 (C.47:1A-1.1), respectively, the home  
39 address of a covered person approved by the Office of Information  
40 Privacy not later than 30 days following the approval. A public  
41 agency shall also discontinue the redaction or nondisclosure of the  
42 home address of any covered person for whom a revocation request  
43 has been approved not later than 30 days following the approval.

44 (2) A custodian of a public agency who makes a reasonable  
45 effort to comply with this subsection shall be presumed to have  
46 acted without willful, purposeful, or reckless disregard of the law.

47 c. An immediate family member who has sought and received  
48 approval under subsection a. of this section and who no longer

1 resides with the active, formerly active, or retired judicial officer,  
2 law enforcement officer, child protective investigator in the  
3 Division of Child Protection and Permanency, or prosecutor shall  
4 submit through the portal a revocation request not later than 30 days  
5 from the date on which the immediate family member no longer  
6 resided with the judicial officer, law enforcement officer, child  
7 protective investigator in the Division of Child Protection and  
8 Permanency, or prosecutor.

9 d. A person submitting a request pursuant to subsection a. of  
10 this section shall affirm in writing that the person understands that  
11 certain rights, duties, and obligations are affected as a result of the  
12 request, including:

13 (1) the receipt of certain notices from non-governmental entities  
14 as would otherwise be required pursuant to the "Municipal Land  
15 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.);

16 (2) the signing of petitions related to the nomination or election  
17 of a candidate to public office or related to any public question;

18 (3) the eligibility or requirements related to seeking or accepting  
19 the nomination for election or election to public office, or the  
20 appointment to any public position;

21 (4) the sale or purchase of a home or other property, recordation  
22 of a judgment, lien or other encumbrance on real or other property,  
23 and any relief granted based thereon;

24 (5) the ability to be notified of any class action suit or settlement;  
25 and

26 (6) any other legal, promotional, or official notice which would  
27 otherwise be provided to the person but for the redaction or  
28 nondisclosure of such person's home address pursuant to subsection  
29 a. of this section.

30 (cf: P.L.2023, c.113, s.4)

31

32 8. (New section) a. Notwithstanding any other law or rule or  
33 regulation to the contrary, whenever there is filed a verified  
34 complaint to the Superior Court of the county in which the request  
35 for access to government records was made under P.L.1963, c.73  
36 (C.47:1A-1 et seq.) alleging that a requestor has sought records  
37 thereunder for the purpose to harass a public agency, or to  
38 substantially interrupt government function, the court may issue a  
39 protective order limiting the number and scope of requests the  
40 requestor may make or order such other relief as it deems  
41 appropriate, including referral of the matter to mediation. The court  
42 may issue the protective order if it finds that the requestor has  
43 sought records under P.L.1963, c.73 (C.47:1A-1 et seq.) for the  
44 purpose of harassing the public agency, or to substantially interrupt  
45 government function, as the term harass is defined in N.J.S.2C:33-  
46 4. The complaint shall be accompanied by a declaration of facts by  
47 the public agency withholding the records demonstrating that it has  
48 complied with P.L.1963, c.73 (C.47:1A-1 et seq.) and has made a

1 good faith effort to reach an informal resolution of the issues  
2 relating to the records requests.

3 The requestor shall have notice and an opportunity to answer the  
4 allegations set forth in the petition submitted by the public agency.

5 The public agency shall have the burden of proof by clear and  
6 convincing evidence.

7 The court's consideration of a public agency's complaint for  
8 relief shall proceed in a summary or expedited manner.

9 b. The order specified in subsection a. of this section may limit,  
10 or, in appropriate circumstances, eliminate the public agency's duty  
11 to respond to government records requests from the requestor in the  
12 future.

13

14 9. (New section) a. A data broker business entity conducting  
15 business in this State shall register with the Division of Revenue  
16 and Enterprise Services in the Department of the Treasury. The  
17 division shall impose an annual fee of \$250 for each registration.  
18 The fee shall be deposited into the fund created pursuant to  
19 subsection c. of this section. For the purpose of this section, "data  
20 broker" shall have the same meaning as in section 1 of P.L.1995,  
21 c.23 (C.47:1A-1.1).

22 b. The Department of the Treasury may issue rules and  
23 regulations necessary to effectuate the purpose of this section. The  
24 rules and regulations shall be effective immediately upon filing  
25 with the Office of Administrative Law for a period not to exceed  
26 one year and may, thereafter, be amended, adopted, or readopted in  
27 accordance with the "Administrative Procedure Act," P.L.1968,  
28 c.410 (C.52:14B-1 et seq.).

29 c. There shall be created in the Department of the Treasury a  
30 dedicated, non-lapsing fund for providing grants to political  
31 subdivisions of the State for the purpose of providing access to  
32 government records electronically, including through the use of  
33 shared services agreements. The fund shall be administered by the  
34 State Treasurer. Monies in the fund shall be appropriated annually  
35 solely for this purpose.

36

37 10. (New section) The Attorney General shall establish a Police  
38 Record Access Improvement Task Force to investigate the existing  
39 statutes governing public access to police records and develop  
40 recommendations for necessary changes to the law.

41 The members of the Police Record Access Improvement Task  
42 Force shall be comprised of 12 members. The membership of the  
43 task force shall be as follows:

44 The Attorney General, or the Attorney's General designee, who  
45 shall serve ex officio, as Chair;

46 Seven public members, appointed by the Governor, one who is a  
47 member of law enforcement, one who is a county or municipal  
48 prosecutor, one who is a criminal defense attorney or public

1 defender, one who is a member of a social justice advocacy  
2 organization, one who is a member of the New Jersey Press  
3 Association, one who is a member of the New Jersey League of  
4 Municipalities, and one who is a member of the New Jersey  
5 Association of Counties;

6 Two public members, appointed by the Governor upon the  
7 recommendation of the President of the Senate; and

8 Two public members, appointed by the Governor upon the  
9 recommendation of the Speaker of the General Assembly.

10 The task force shall submit to the Governor and to the  
11 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
12 19.1), recommendations for changes to the law.

13 The Department of Law and Public Safety shall provide  
14 stenographic, clerical, and other administrative assistance and  
15 professional staff as the task force requires to carry out its work.  
16 The task force shall be entitled to call to its assistance and avail  
17 itself of the services of the employees of any State, county, or  
18 municipal department, board, bureau, commission, or agency as it  
19 may require and as may be available for its purposes.

20 The public members of the task force shall serve without  
21 compensation, but may be reimbursed for necessary and actual  
22 expenses incurred in the performance of their duties to the extent  
23 that funds are made available for that purpose.

24

25 11. (New section) a. The provisions of this section shall apply  
26 only to the New Jersey Division of Elections, the New Jersey  
27 Election Law Enforcement Commission, County Boards of  
28 Elections, County Superintendents of Elections, County Clerks,  
29 Municipal Clerks, Fire District Board Clerks, School District  
30 Business Administrators, and School District Board Secretaries,  
31 hereafter referred to as an “election agency” or “election agencies.”  
32 Except as otherwise provided for in this section, all provisions of  
33 this act, P.L. , c. (pending before the Legislature as this bill),  
34 shall apply to all election agencies. Nothing herein shall be  
35 construed to mean that an election agency is required to provide a  
36 record in response to a request for records, unless it has made or  
37 received and maintains said requested record pursuant to law or  
38 regulation.

39 b. Notwithstanding any other law, rule, or regulation to the  
40 contrary, except as otherwise provided in sections 2 and 3 of  
41 P.L.2021, c.371 (C.47:1B-1 et seq.), subsection b. of section 1 of  
42 P.L.1994, c.148 (C.19:31-3.2), or in any rules or regulations  
43 promulgated by the Secretary of State pursuant to subsection f. of  
44 this section, the following shall be records for which the provided  
45 information shall not be redacted by an election agency except for  
46 voter signatures, Social Security numbers, driver license numbers,  
47 and non-driver identification numbers:

- 1 (1) Voter registration forms and forms changing the provided  
2 information thereof;
  - 3 (2) Party affiliation forms and forms changing the provided  
4 information thereof;
  - 5 (3) Applications for a vote-by-mail ballot, except as otherwise  
6 provided in sections 3 and 13 of P.L.2020, c.70 (C.19:63-1 et seq.);
  - 7 (4) Forms or reports submitted to the Election Law Enforcement  
8 Commission;
  - 9 (5) Nominating petitions for any candidate for any elected  
10 office, which shall be provided in a manner that includes voter  
11 signatures on such petitions;
  - 12 (6) Petitions to recall an elected official, which shall be  
13 provided in a manner that includes voter signatures on such  
14 petitions;
  - 15 (7) Petitions or submissions for any public question or referenda  
16 to be considered by voters, which shall be provided in a manner that  
17 includes voter signatures on such petitions;
  - 18 (8) Any submissions, responses, objections, or challenges  
19 pertaining to a record referred to in this subsection; and
  - 20 (9) Any addendums, amendments, corrections, withdrawals, or  
21 accompanying forms or submissions pertaining to a record referred  
22 to in this subsection.
- 23 c. Notwithstanding any other law, rule, or regulation to the  
24 contrary, the following shall be records and information that an  
25 election agency shall make available to requestors for immediate  
26 access and transmission via email as soon as possible, but not later  
27 than two business days after receipt of the request, provided the  
28 request is not for a commercial purpose, for which a fee shall not be  
29 charged nor collected:
- 30 (1) Nominating petitions for any candidate for any elected office  
31 filed with the election agency within the preceding 90 days of the  
32 date the request is received;
  - 33 (2) Petitions to recall an elected official filed with the election  
34 agency within the preceding 90 days of the date the request is  
35 received;
  - 36 (3) Petitions or submissions for any public question or referenda  
37 to be considered by voters filed with the election agency within the  
38 preceding 90 days of the date the request is received;
  - 39 (4) Any submissions, responses, objections, or challenges filed  
40 with the election agency within the preceding 90 days pertaining to  
41 a record referred to in this subsection;
  - 42 (5) Any addendums, amendments, corrections, withdrawals, or  
43 accompanying forms or submissions filed with the election agency  
44 within the preceding 90 days pertaining to a record referred to in  
45 this subsection; and
  - 46 (6) The inspection and transmission deadline requirements of  
47 this subsection shall be deemed satisfied if an election agency posts

1 on its website the records and information referred to in this  
2 subsection.

3 d. Notwithstanding any other law, rule, or regulation to the  
4 contrary, the following in paragraphs (1) through (4) of this  
5 subsection shall be records and information that an election agency  
6 shall make available to requestors for immediate access and  
7 transmission via email as soon as possible, provided the request  
8 pertains only to an election to be held within 16 days after the date  
9 of the request and is not for a commercial purpose. The  
10 transmission shall be not later than two business days after receipt  
11 of the request when said request is made between one and 15 days  
12 before the date of the election pertaining to the request. For any  
13 request submitted the day before an election by noon, the request  
14 shall be completed by noon the day of the election. A fee shall not  
15 be charged nor collected. This subsection shall apply to:

16 (1) Lists, in a format capable of being sorted by the requestor, of  
17 registered voters, including their name, address, party affiliation,  
18 and municipal voting ward and district, who have requested, been  
19 mailed, or returned a vote-by-mail ballot, including the dates the  
20 ballot was requested by the voter, mailed to the voter, and received  
21 by the appropriate election agency;

22 (2) Lists, in a format capable of being sorted by the requestor, of  
23 registered voters, including their name, address, party affiliation,  
24 and municipal voting ward and district, who have cast a vote during  
25 the early voting period, including the date and polling location the  
26 vote was cast;

27 (3) The inspection and transmission deadline requirements of this  
28 subsection shall be deemed satisfied if an election agency posts on  
29 its website the records and information referred to in this  
30 subsection; and

31 (4) Whenever the requirements of this subsection would cause a  
32 voter's privacy to be violated, the information shall be provided in a  
33 manner that maintains the privacy of the voter.

34 e. The following records or information shall not be subject to  
35 disclosure pursuant to a request for public records:

36 (1) Ballots marked by a voter, vote tabulations, or election  
37 results for any election prior to the time of the closing of the polls  
38 on the date of the election, except as otherwise provided for by law,  
39 rule, or regulation; and

40 (2) Manuals instructions, specifications, technical information,  
41 or programming code of computers, software, applications,  
42 networks, tablets, voting machines, printers, scanners, and any other  
43 equipment, systems, policies or plans used for the conduct of  
44 elections, the disclosure of which, could have the potential to  
45 jeopardize the security, integrity or accuracy of the conduct of  
46 elections, tabulation of votes, or determination of election results,  
47 except as otherwise provided for by law, rule, or regulation, or in

1 response to a subpoena or order of a court or tribunal of competent  
2 jurisdiction.

3 f. The Secretary of State may adopt regulations necessary to  
4 effectuate the purposes of this act, which regulations shall be  
5 effective immediately upon filing with the Office of Administrative  
6 Law for a period not to exceed 18 months, and may, thereafter, be  
7 amended, adopted or readopted in accordance with the provisions of  
8 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
9 seq.).

10

11 12. (New section) a. The provisions of section 1 of P.L.1963,  
12 c.73 (C.47:1A-1), section 1 of P.L.1995, c.23 (C.47:1A-1.1),  
13 sections 6, 7, and 8 of P.L.2001, c.404 (C.47:1A-5 through 47:1A-  
14 7), and section 2 of P.L.2021, c.371 (C.47:1B-2), as amended by  
15 sections 1 through 5 and section 7 of P.L. , c. (pending before  
16 the Legislature as this bill), shall apply retroactively to all  
17 complaints and appeals pending before the Government Records  
18 Council, the Superior Court or the Supreme Court of New Jersey  
19 filed prior to the effective date of P.L. , c. (pending before the  
20 Legislature as this bill), provided, however, that nothing in this  
21 section shall be construed as to retroactively reduce the statute of  
22 limitations governing any complaint or appeal pending before the  
23 Government Records Council, the Superior Court or the Supreme  
24 Court of New Jersey.

25 b. All complaints and appeals pending before the Government  
26 Records Council or the Superior Court filed prior to the effective  
27 date of P.L. , c. (pending before the Legislature as this bill),  
28 either anonymously or using a fictitious name or identity, may be  
29 dismissed with prejudice upon a motion by the public agency,  
30 unless the complainant files an amendment to their complaint that  
31 accurately identifies their name and mailing address within 90 days  
32 of the effective date of P.L. , c. (pending before the Legislature  
33 as this bill).

34 c. The parties to any complaint or appeal pending before the  
35 Government Records Council, the Superior Court or the Supreme  
36 Court of New Jersey filed prior to the effective date of P.L. , c.  
37 (pending before the Legislature as this bill), shall be permitted to  
38 file an amendment to their respective complaints and answers  
39 within 90 days of the effective date of P.L. , c. (pending before  
40 the Legislature as this bill).

41

42 13. a. There is hereby appropriated \$4,000,000 from the State  
43 General Fund to the Department of Community Affairs to provide  
44 grants to political subdivisions of the State for the purpose of  
45 making government records that are accessible under P.L.1963, c.73  
46 (C.47:1A-1 et seq.) available electronically, including through the  
47 use of shared services agreements.



[First Reprint]

**ASSEMBLY, No. 4045**

**STATE OF NEW JERSEY**

**221<sup>st</sup> LEGISLATURE**

INTRODUCED MARCH 4, 2024

**Sponsored by:**

**Assemblyman JOE DANIELSEN**

**District 17 (Middlesex and Somerset)**

**Assemblywoman VICTORIA A. FLYNN**

**District 13 (Monmouth)**

**Co-Sponsored by:**

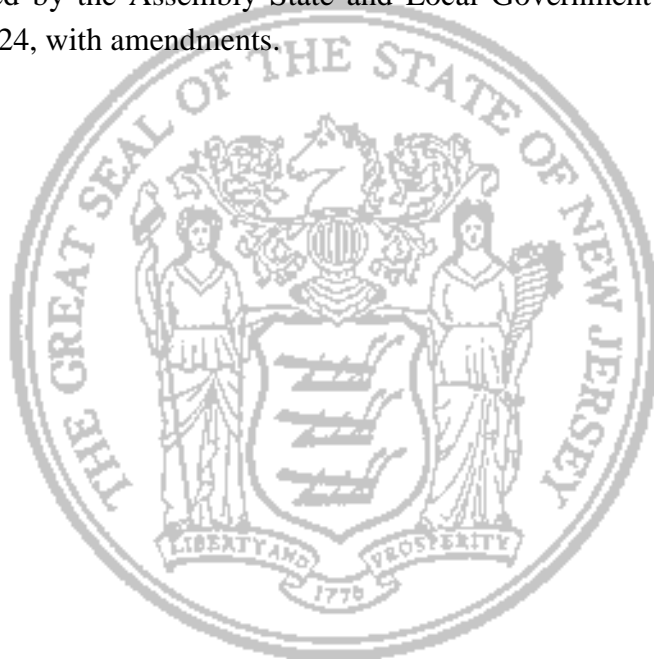
**Assemblyman Atkins**

**SYNOPSIS**

Makes various changes to process for access to government records; appropriates \$8 million.

**CURRENT VERSION OF TEXT**

As reported by the Assembly State and Local Government Committee on March 11, 2024, with amendments.



**(Sponsorship Updated As Of: 4/11/2024)**

1 AN ACT concerning access to government records, amending and  
2 supplementing various parts of the statutory law, and making an  
3 appropriation.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 1 of P.L.1963, c.73 (C.47:1A-1) is amended to read  
9 as follows:

10 1. The Legislature finds and declares it to be the public policy  
11 of this State that:

12 government records shall be readily accessible for inspection,  
13 copying, or examination by the citizens of this State, with certain  
14 exceptions, for the protection of the public interest, and any  
15 limitations on the right of access accorded by P.L.1963, c.73  
16 (C.47:1A-1 et seq.) as amended and supplemented, shall be  
17 construed in favor of the public's right of access;

18 all government records shall be subject to public access unless  
19 exempt from such access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as  
20 amended and supplemented; any other statute; resolution of either  
21 or both houses of the Legislature; regulation promulgated under the  
22 authority of any statute or Executive Order of the Governor;  
23 Executive Order of the Governor; Rules of Court; any federal law,  
24 federal regulation, or federal order;

25 a public agency has a responsibility and an obligation to  
26 safeguard from public access a citizen's personal information with  
27 which it has been entrusted, or information that might reasonably  
28 lead to disclosure of a person's personal information, when  
29 disclosure thereof would violate the citizen's reasonable expectation  
30 of privacy, or when the public agency has reason to believe that  
31 disclosure of such personal information may result in harassment,  
32 unwanted solicitation, identity theft, or opportunities for other  
33 criminal acts; and

34 nothing contained in P.L.1963, c.73 (C.47:1A-1 et seq.), as  
35 amended and supplemented, shall be construed as affecting in any  
36 way the common law right of access to any record, including but  
37 not limited to criminal investigatory records of a law enforcement  
38 agency.

39 (cf: P.L.2001, c.404, s.1)

40  
41 2. Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended to  
42 read as follows:

43 1. As used in P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and  
44 supplemented:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ASL committee amendments adopted March 11, 2024.

1 "Biotechnology" means any technique that uses living  
2 organisms, or parts of living organisms, to make or modify  
3 products, to improve plants or animals, or to develop micro-  
4 organisms for specific uses; including the industrial use of  
5 recombinant DNA, cell fusion, and novel bioprocessing techniques.

6 "Child protective investigator in the Division of Child Protection  
7 and Permanency" means an employee of the Division of Child  
8 Protection and Permanency in the Department of Children and  
9 Families whose primary duty is to investigate reports of child abuse  
10 and neglect, or any other employee of the Department of Children  
11 and Families whose duties include investigation, response to, or  
12 review of allegations of child abuse and neglect.

13 "Commercial purpose" means the direct or indirect use of any  
14 part of a government record for sale, resale, solicitation, rent or  
15 lease of a service, or any use by which the user expects a profit  
16 either through commission, salary, or fee. "Commercial purpose"  
17 shall not include using, distributing, gathering, procuring,  
18 transmitting, compiling, editing, disseminating, or publishing of  
19 information or data by the news media, or any parent company,  
20 subsidiary, or affiliate of any news media, as defined by section 2 of  
21 P.L.1977, c.253 (C.2A:84A-21a), or by any news, journalistic,  
22 educational, scientific, scholarly, or governmental organization, or  
23 by any person authorized to act on behalf of a candidate committee,  
24 joint candidate committee, political committee, continuing political  
25 committee, political party committee, or legislative leadership  
26 committee, as defined by section 3 of P.L.1973, c.83 (C.19:44A-3),  
27 registered with the New Jersey Election Law Enforcement  
28 Commission.

29 "Constituent" means any State resident or other person  
30 communicating with a member of the Legislature.

31 "Criminal investigatory record" means a record which is not  
32 required by law to be made, maintained or kept on file that is held  
33 by a law enforcement agency which pertains to any criminal  
34 investigation or related civil enforcement proceeding.

35 "Custodian of a government record" or "custodian" means in the  
36 case of a municipality, the municipal clerk and in the case of any  
37 other public agency, the officer officially designated by formal  
38 action of that agency's director or governing body, as the case may  
39 be.

40 "Data broker" means a business that knowingly collects and sells  
41 to third parties the personal information of a consumer with whom  
42 the business does not have a direct relationship.

43 "Government record" or "record" means any paper, written or  
44 printed book, document, drawing, map, plan, photograph,  
45 microfilm, data processed or image processed document,  
46 information stored or maintained electronically or by sound-  
47 recording or in a similar device, or any copy thereof, that has been  
48 made, maintained or kept on file in the course of his or its official

1 business by any officer, commission, agency or authority of the  
2 State or of any political subdivision thereof, including subordinate  
3 boards thereof, or that has been received in the course of his or its  
4 official business by any such officer, commission, agency, or  
5 authority of the State or of any political subdivision thereof,  
6 including subordinate boards thereof. The terms shall not include  
7 inter-agency or intra-agency advisory, consultative, **[or]**  
8 deliberative, or draft material, including notes generated and used to  
9 prepare final reports, documents, or records.

10 A government record shall not include the following information  
11 which is deemed to be confidential for the purposes of P.L.1963,  
12 c.73 (C.47:1A-1 et seq.) as amended and supplemented:

13 information received by a member of the Legislature from a  
14 constituent or information held by a member of the Legislature  
15 concerning a constituent, including, but not limited to, information  
16 in written form or contained in any e-mail or computer data base, or  
17 in any telephone record whatsoever, unless it is information the  
18 constituent is required by law to transmit;

19 any memorandum, correspondence, notes, report or other  
20 communication prepared by, or for, the specific use of a member of  
21 the Legislature in the course of the member's official duties, except  
22 that this provision shall not apply to an otherwise publicly-  
23 accessible report which is required by law to be submitted to the  
24 Legislature or its members;

25 any copy, reproduction or facsimile of any photograph, negative  
26 or print, including instant photographs and videotapes of the body,  
27 or any portion of the body, of a deceased person, taken by or for the  
28 medical examiner at the scene of death or in the course of a post  
29 mortem examination or autopsy made by or caused to be made by  
30 the medical examiner except:

31 when used in a criminal action or proceeding in this State which  
32 relates to the death of that person,

33 for the use as a court of this State permits, by order after good  
34 cause has been shown and after written notification of the request  
35 for the court order has been served at least five days before the  
36 order is made upon the county prosecutor for the county in which  
37 the post mortem examination or autopsy occurred,

38 for use in the field of forensic pathology or for use in medical or  
39 scientific education or research, or

40 for use by any law enforcement agency in this State or any other  
41 state or federal law enforcement agency;

42 criminal investigatory records;

43 the portion of any criminal record concerning a person's  
44 detection, apprehension, arrest, detention, trial or disposition for  
45 unlawful manufacturing, distributing, or dispensing, or possessing  
46 or having under control with intent to manufacture, distribute, or  
47 dispense, marijuana or hashish in violation of paragraph (11) of  
48 subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or

1 hashish in violation of paragraph (12) of subsection b. of that  
2 section, or a violation of either of those paragraphs and a violation  
3 of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or  
4 subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for  
5 distributing, dispensing, or possessing, or having under control with  
6 intent to distribute or dispense, on or within 1,000 feet of any  
7 school property, or on or within 500 feet of the real property  
8 comprising a public housing facility, public park, or public  
9 building, or for obtaining, possessing, using, being under the  
10 influence of, or failing to make lawful disposition of marijuana or  
11 hashish in violation of paragraph (3) or (4) of subsection a., or  
12 subsection b., or subsection c. of N.J.S.2C:35-10, or for a violation  
13 of any of those provisions and a violation of N.J.S.2C:36-2 for  
14 using or possessing with intent to use drug paraphernalia with that  
15 marijuana or hashish;

16 victims' records, except that a victim of a crime shall have access  
17 to the victim's own records;

18 any written request by a crime victim for a record to which the  
19 victim is entitled to access as provided in this section, including,  
20 but not limited to, any law enforcement agency report, domestic  
21 violence offense report, and temporary or permanent restraining  
22 order;

23 personal firearms records, except for use by any person  
24 authorized by law to have access to these records or for use by any  
25 government agency, including any court or law enforcement  
26 agency, for purposes of the administration of justice;

27 personal identifying information received by the Division of Fish  
28 and Wildlife in the Department of Environmental Protection in  
29 connection with the issuance of any license authorizing hunting  
30 with a firearm【. For the purposes of this paragraph, personal  
31 identifying information shall include, but not be limited to, identity,  
32 name, address, social security number, telephone number, fax  
33 number, driver's license number, email address, or social media  
34 address of any applicant or licensee】;

35 trade secrets and proprietary commercial or financial information  
36 obtained from any source. For the purposes of this paragraph, trade  
37 secrets shall include 【data processing】 software, applications, and  
38 code obtained by a public body under a licensing agreement which  
39 prohibits its disclosure;

40 any record within the attorney-client privilege. This paragraph  
41 shall not be construed as exempting from access attorney or  
42 consultant bills or invoices except that such bills or invoices may be  
43 redacted to remove any information protected by the attorney-client  
44 privilege;

45 administrative or technical information regarding computer  
46 hardware, tablets, telephones, and devices, or software,

1 applications, and networks [which, if disclosed, would jeopardize  
2 computer security] , or related technologies;  
3 emergency or security information or procedures for any  
4 buildings or facility which, if disclosed, would jeopardize security  
5 of the building or facility or persons therein;  
6 security measures and surveillance techniques which, if  
7 disclosed, would create a risk to the safety of persons, property,  
8 electronic data or software;  
9 security alarm system activity and access reports, including  
10 video footage, for any public building, facility, or grounds unless  
11 the request identifies a specific incident that occurred, a specific  
12 date, and a limited time period at a particular public building,  
13 facility, or grounds;  
14 information which, if disclosed, would give an advantage to  
15 competitors or bidders, including detailed or itemized cost estimates  
16 prior to bid opening;  
17 information generated by or on behalf of public employers or  
18 public employees in connection with any sexual harassment  
19 complaint filed with a public employer or with any grievance filed  
20 by or against an individual or in connection with collective  
21 negotiations, including documents and statements of strategy or  
22 negotiating position;  
23 information related to strategies or negotiating positions that  
24 would unfairly prejudice or impair contract negotiations;  
25 information which is a communication between a public agency  
26 and its insurance carrier, administrative service organization or risk  
27 management office;  
28 information which is to be kept confidential pursuant to court  
29 order;  
30 any copy of form DD-214, NGB-22, or that form, issued by the  
31 United States Government, or any other certificate of honorable  
32 discharge, or copy thereof, from active service or the reserves of a  
33 branch of the Armed Forces of the United States, or from service in  
34 the organized militia of the State, that has been filed by an  
35 individual with a public agency, except that a veteran or the  
36 veteran's spouse or surviving spouse shall have access to the  
37 veteran's own records;  
38 any copy of an oath of allegiance, oath of office or any  
39 affirmation taken upon assuming the duties of any public office, or  
40 that oath or affirmation, taken by a current or former officer or  
41 employee in any public office or position in this State or in any  
42 county or municipality of this State, including members of the  
43 Legislative Branch, Executive Branch, Judicial Branch, and all law  
44 enforcement entities, except that the full name, title, and oath date  
45 of that person contained therein shall not be deemed confidential;  
46 that portion of any document which discloses the social security  
47 number, credit card number, **[unlisted]** debit card number, bank  
48 account information, month and day of birth, email address, any

1 telephone number, or driver license number of any person, or, in  
2 accordance with section 2 of P.L.2021, c.371 (C.47:1B-2), that  
3 portion of any document which discloses the home address, whether  
4 a primary or secondary residence, of any active, formerly active, or  
5 retired judicial officer, law enforcement officer, child protective  
6 investigator in the Division of Child Protection and Permanency, or  
7 prosecutor, or, as defined in section 1 of P.L.2021, c.371 (C.47:1B-  
8 1), any immediate family member thereof; except for use by any  
9 government agency, including any court or law enforcement  
10 agency, in carrying out its functions, or any private person or entity  
11 acting on behalf thereof, or any private person or entity seeking to  
12 enforce payment of court-ordered child support; except with respect  
13 to the disclosure of driver information by the New Jersey Motor  
14 Vehicle Commission as permitted by section 2 of P.L.1997, c.188  
15 (C.39:2-3.4); except with respect to the disclosure of information  
16 included in records and documents maintained by the Department of  
17 the Treasury in connection with the State's business registry  
18 programs; and except that a social security number contained in a  
19 record required by law to be made, maintained or kept on file by a  
20 public agency shall be disclosed when access to the document or  
21 disclosure of that information is not otherwise prohibited by State  
22 or federal law, regulation or order or by State statute, resolution of  
23 either or both houses of the Legislature, Executive Order of the  
24 Governor, rule of court or regulation promulgated under the  
25 authority of any statute or executive order of the Governor;

26 that portion of any document that discloses the personal  
27 identifying information of any person provided to a public agency  
28 for the sole purpose of receiving official notifications;

29 a list of persons identifying themselves as being in need of  
30 special assistance in the event of an emergency maintained by a  
31 municipality for public safety purposes pursuant to section 1 of  
32 P.L.2017, c.266 (C.40:48-2.67), and their personal identifying  
33 information; [and]

34 a list of persons identifying themselves as being in need of  
35 special assistance in the event of an emergency maintained by a  
36 county for public safety purposes pursuant to section 6 of P.L.2011,  
37 c.178 (C.App.A:9-43.13), and their personal identifying  
38 information;

39 that portion of any document that requires and would disclose  
40 personal identifying information of persons under the age of 18  
41 years, including names, except with respect to the disclosure of  
42 driver information by the New Jersey Motor Vehicle Commission  
43 as permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4) or the  
44 disclosure of driver information to any insurer or insurance support  
45 organization, or a self-insured entity, or its agents, employees, or  
46 contractors, for use in connection with claims investigation  
47 activities, antifraud activities, rating, or underwriting, and except  
48 with respect to the disclosure of voter information on voter and

1 election records pursuant to section 11 of P.L. , c. (C.) (pending  
2 before the Legislature as this bill);

3 personal identifying information disclosed on domestic animal  
4 permits, licenses, and registration;

5 structured reference data that helps to sort and identify attributes  
6 of the information it describes, referred to as metadata, or any  
7 extrapolation or compilation thereof;

8 New Jersey State Firemen's Association financial relief  
9 applications;

10 owner and maintenance manuals;

11 data classified under the "Health Insurance Portability and  
12 Accountability Act of 1996," Pub.L.104-191;

13 logs of telephone calls, emails, or texts; and

14 electronic or paper calendars for individuals.

15 A government record shall not include, with regard to any public  
16 institution of higher education, the following information which is  
17 deemed to be privileged and confidential:

18 pedagogical, scholarly and/or academic research records and/or  
19 the specific details of any research project conducted under the  
20 auspices of a public higher education institution in New Jersey,  
21 including, but not limited to, research, development information,  
22 testing procedures, or information regarding test participants,  
23 related to the development or testing of any pharmaceutical or  
24 pharmaceutical delivery system, except that a custodian may not  
25 deny inspection of a government record or part thereof that gives  
26 the name, title, expenditures, source and amounts of funding and  
27 date when the final project summary of any research will be  
28 available;

29 test questions, scoring keys and other examination data  
30 pertaining to the administration of an examination for employment  
31 or academic examination;

32 records of pursuit of charitable contributions or records  
33 containing the identity of a donor of a gift if the donor requires non-  
34 disclosure of the donor's identity as a condition of making the gift  
35 provided that the donor has not received any benefits of or from the  
36 institution of higher education in connection with such gift other  
37 than a request for memorialization or dedication;

38 valuable or rare collections of books or documents obtained by  
39 gift, grant, bequest or devise conditioned upon limited public  
40 access;

41 information contained on individual admission applications; and

42 information concerning student records or grievance or  
43 disciplinary proceedings against a student to the extent disclosure  
44 would reveal the identity of the student.

45 "Judicial officer" means any active, formerly active, or retired  
46 federal, state, county, or municipal judge, including a judge of the  
47 Tax Court and any other court of limited jurisdiction established,  
48 altered, or abolished by law, a judge of the Office of Administrative

1 Law, a judge of the Division of Workers' Compensation, and any  
2 other judge established by law who serves in the executive branch.

3 "Law enforcement agency" means a public agency, or part  
4 thereof, determined by the Attorney General to have law  
5 enforcement responsibilities.

6 "Law enforcement officer" means a person whose public duties  
7 include the power to act as an officer for the detection,  
8 apprehension, arrest, and conviction of offenders against the laws of  
9 this State.

10 "Member of the Legislature" means any person elected or  
11 selected to serve in the New Jersey Senate or General Assembly.

12 "Personal firearms record" means any information contained in a  
13 background investigation conducted by the chief of police, the  
14 county prosecutor, or the Superintendent of State Police, of any  
15 applicant for a permit to purchase a handgun, firearms identification  
16 card license, or firearms registration; any application for a permit to  
17 purchase a handgun, firearms identification card license, or firearms  
18 registration; any document reflecting the issuance or denial of a  
19 permit to purchase a handgun, firearms identification card license,  
20 or firearms registration; and any permit to purchase a handgun,  
21 firearms identification card license, or any firearms license,  
22 certification, certificate, form of register, or registration statement.  
23 For the purposes of this paragraph, information contained in a  
24 background investigation shall include, but not be limited to,  
25 identity, name, address, social security number, [phone] telephone  
26 number, fax number, driver's license number, email address, or  
27 social media address of any applicant, licensee, registrant or permit  
28 holder.

29 "Personal identifying information" means information that may  
30 be used, alone or in conjunction with any other information, to  
31 identify a specific individual. For purposes of this act, personal  
32 identifying information shall include, but shall not be limited to, the  
33 following data elements: name, social security number, credit card  
34 number, debit card number, bank account information, month and  
35 day of birth, email address, any telephone number, the street  
36 address portion of any person's primary or secondary home address,  
37 or driver license number of any person.

38 "Public agency" or "agency" means any of the principal  
39 departments in the Executive Branch of State Government, and any  
40 division, board, bureau, office, commission or other instrumentality  
41 within or created by such department; the Legislature of the State  
42 and any office, board, bureau or commission within or created by  
43 the Legislative Branch; and any independent State authority,  
44 commission, instrumentality or agency. The terms also mean any  
45 political subdivision of the State or combination of political  
46 subdivisions, and any division, board, bureau, office, commission or  
47 other instrumentality within or created by a political subdivision of  
48 the State or combination of political subdivisions, and any

1 independent authority, commission, instrumentality or agency  
2 created by a political subdivision or combination of political  
3 subdivisions.

4 "Victim of a crime" means a person who has suffered personal or  
5 psychological injury or death or incurs loss of or injury to personal  
6 or real property as a result of a crime, or if such a person is  
7 deceased or incapacitated, a member of that person's immediate  
8 family.

9 "Victim's record" means an individually identifiable file or  
10 document held by a victims' rights agency which pertains directly to  
11 a victim of a crime except that a victim of a crime shall have access  
12 to the victim's own records.

13 "Victims' rights agency" means a public agency, or part thereof,  
14 the primary responsibility of which is providing services, including,  
15 but not limited to, food, shelter, or clothing, medical, psychiatric,  
16 psychological or legal services or referrals, information and referral  
17 services, counseling and support services, or financial services to  
18 victims of crimes, including victims of sexual assault, domestic  
19 violence, violent crime, child endangerment, child abuse or child  
20 neglect, and the Victims of Crime Compensation Board, established  
21 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as  
22 the Victims of Crime Compensation Office pursuant to P.L.2007,  
23 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.  
24 (cf: P.L.2023, c.113, s.1)

25

26 3. Section 6 of P.L.2001, c.404 (C.47:1A-5) is amended to read as  
27 follows:

28 6. a. The custodian of a government record shall permit the record  
29 to be inspected, examined, and copied by any person during regular  
30 business hours; or in the case of a municipality having a population of  
31 5,000 or fewer according to the most recent federal decennial census, a  
32 board of education having a total district enrollment of 500 or fewer,  
33 or a public authority having less than \$10 million in assets, during not  
34 less than six regular business hours over not less than three business  
35 days per week or the entity's regularly-scheduled business hours,  
36 whichever is less; unless a government record is exempt from public  
37 access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and  
38 supplemented; any other statute; resolution of either or both houses of  
39 the Legislature; regulation promulgated under the authority of any  
40 statute or Executive Order of the Governor; Executive Order of the  
41 Governor; Rules of Court; any federal law; federal regulation; or  
42 federal order. Prior to allowing access to any government record, the  
43 custodian thereof shall redact from that record any information which  
44 discloses the social security number, credit card number, **[unlisted]**  
45 telephone number, or driver license number of any person, or, in  
46 accordance with section 2 of P.L.2021, c.371 (C.47:1B-2), the home  
47 address, whether a primary or secondary residence, of any active,  
48 formerly active, or retired judicial officer, prosecutor, law enforcement

1 officer, or child protective investigator in the Division of Child  
2 Protection and Permanency, or, as defined in section 1 of P.L.2021,  
3 c.371 (C.47:1B-1), any immediate family member thereof; except for  
4 use by any government agency, including any court or law  
5 enforcement agency, in carrying out its functions, or any private  
6 person or entity acting on behalf thereof, or any private person or  
7 entity seeking to enforce payment of court-ordered child support;  
8 except with respect to the disclosure of driver information by the New  
9 Jersey Motor Vehicle Commission as permitted by section 2 of  
10 P.L.1997, c.188 (C.39:2-3.4); and except that a social security number  
11 contained in a record required by law to be made, maintained or kept  
12 on file by a public agency shall be disclosed when access to the  
13 document or disclosure of that information is not otherwise prohibited  
14 by State or federal law, regulation or order or by State statute,  
15 resolution of either or both houses of the Legislature, Executive Order  
16 of the Governor, rule of court or regulation promulgated under the  
17 authority of any statute or executive order of the Governor. Prior to  
18 allowing access to any government record, the custodian shall redact  
19 from that record any information which discloses, or which might  
20 reasonably lead to disclosure of the telephone number, email address,  
21 or any medical, financial, or personal information of a member of the  
22 public when the disclosure thereof would violate the citizen's  
23 reasonable expectation of privacy or when the public agency has a  
24 reason to believe that disclosure of such personal information may  
25 result in harassment, unwanted solicitation, identity theft, or  
26 opportunities for other criminal acts. Except where an agency can  
27 demonstrate an emergent need, a regulation that limits access to  
28 government records shall not be retroactive in effect or applied to deny  
29 a request for access to a government record that is pending before the  
30 agency, the council or a court at the time of the adoption of the  
31 regulation.

32 b. (1) A copy or copies of a government record may be purchased  
33 by any person upon payment of the fee prescribed by law or  
34 regulation.

35 Except as otherwise provided by law or regulation and except as  
36 provided in paragraph (2) of this subsection, the fee assessed for the  
37 duplication of a government record embodied in the form of printed  
38 matter shall be \$0.05 per letter size page or smaller, and \$0.07 per  
39 legal size page or larger. **【**If a public agency can demonstrate that its  
40 actual costs for duplication of a government record exceed the  
41 foregoing rates, the public agency shall be permitted to charge the  
42 actual cost of duplicating the record. The actual cost of duplicating the  
43 record, upon which all copy fees are based, shall be the cost of  
44 materials and supplies used to make a copy of the record, but shall not  
45 include the cost of labor or other overhead expenses associated with  
46 making the copy except as provided for in subsection c. of this  
47 section.**】** Access to electronic records and non-printed materials shall  
48 be provided free of charge , but the public agency may charge for the

1 actual costs of any needed supplies such as computer discs. No fee  
2 shall be charged if the request is completed by directing the requestor  
3 to the requested government record that is available on the public  
4 agency's website or the website of another public agency.

5 (2) No fee shall be charged to a victim of a crime for a copy or  
6 copies of a record to which the crime victim is entitled to access, as  
7 provided in section 1 of P.L.1995, c.23 (C.47:1A-1.1).

8 c. Whenever the nature, format, manner of collation, or volume of  
9 a government record embodied in the form of printed matter to be  
10 inspected, examined, or copied pursuant to this section is such that the  
11 record cannot be reproduced by ordinary document copying equipment  
12 in ordinary business size or involves an extraordinary expenditure of  
13 time and effort to accommodate the request, the public agency may  
14 charge, in addition to the actual cost of duplicating the record, a  
15 special service charge that **[shall be reasonable and]** shall be based  
16 upon the actual direct cost of providing the copy or copies **;** provided,  
17 however, that in the case of a municipality, rates for the duplication of  
18 particular records when the actual cost of copying exceeds the  
19 foregoing rates shall be established in advance by ordinance**], and**  
20 such special service charge shall be presumed to be reasonable.

21 The requestor shall have the opportunity to review and object to  
22 **[the]** any fee or charge prior to it being incurred.

23 d. A custodian shall permit access to a government record and  
24 provide a copy thereof in the medium or format requested if the public  
25 agency maintains the record in that medium or format. If the public  
26 agency does not maintain the record in the medium or format  
27 requested, the custodian **[shall]**, at the custodian's discretion, may  
28 either convert the record to the medium or format requested or provide  
29 a copy in some other meaningful medium or format. **[If a request is**  
30 **for a record: (1) in a medium not routinely used by the agency; (2) not**  
31 **routinely developed or maintained by an agency; or (3) requiring a**  
32 **substantial amount of manipulation or programming of information**  
33 **technology, the agency may charge, in addition to the actual cost of**  
34 **duplication, a special charge that shall be reasonable and shall be**  
35 **based on the cost for any extensive use of information technology, or**  
36 **for the labor cost of personnel providing the service, that is actually**  
37 **incurred by the agency or attributable to the agency for the**  
38 **programming, clerical, and supervisory assistance required, or both.]**  
39 If the public agency does not maintain the record in the electronic  
40 medium or format requested, the custodian shall be under no  
41 obligation to convert the record to the electronic medium or format  
42 requested but shall, at a minimum, provide a copy in the format  
43 maintained by the public agency.

44 e. Immediate access ordinarily shall be granted to budgets, bills,  
45 vouchers, contracts, including collective negotiations agreements and  
46 individual employment contracts, and public employee salary and

1 overtime information. Immediate access to government records shall  
2 not be required to be granted for documents over 12 months old.

3 Government records shall be made available to the public on a  
4 publicly available website to the extent feasible. A public agency may  
5 enter into shared services agreements for providing certain government  
6 records electronically.

7 If the government record is readily available on a public agency's  
8 website, the custodian may require the requestor to obtain the record  
9 from the website, which shall contain a search bar feature on its home  
10 page. The custodian shall provide the requestor with directions to  
11 assist in finding the record on the website, including providing the  
12 website URL address and the location on the website of the search bar,  
13 menu button, tab, link, landing page or equivalent, which contains the  
14 requested record. <sup>1</sup> [The request shall be deemed fulfilled upon  
15 notification by the custodian to the requestor of the availability and  
16 location on the website of the requested information.] If the requestor  
17 does not respond to the custodian within seven days of the custodian  
18 providing information about a record on the public agency's website,  
19 the request shall be deemed fulfilled. If, after the custodian has  
20 provided instructions on how to find a record on a public agency's  
21 website, the requestor is unable to find the record upon making a good  
22 faith effort to locate the record on the website, the requestor shall  
23 notify the custodian within seven days of the custodian providing the  
24 information. Upon receiving such a request for assistance from a  
25 requestor, the custodian shall make a reasonable attempt to assist the  
26 requestor in finding the record on the website within seven days of the  
27 requestor notifying the custodian.<sup>1</sup>

28 f. The custodian of a public agency shall adopt a form for the use  
29 of any person who requests access to a government record held or  
30 controlled by the public agency. The form shall provide space for the  
31 name, address, email address and **[phone]** telephone number of the  
32 requestor and a brief description of the government record sought. A  
33 request shall be submitted by a requestor in the form adopted by the  
34 custodian and the custodian may deny a request that is not submitted in  
35 the form adopted by the custodian. A request may be submitted  
36 anonymously provided, however, that anonymous requestors shall not  
37 be permitted to institute proceedings pursuant to section 7 of P.L.2001,  
38 c.404 (C.47:1A-6).

39 The form also shall include space for a requestor to certify whether  
40 the government record will be used by that requestor or another person  
41 for a commercial purpose, and the requestor shall be required to  
42 provide this information for the request to be fulfilled.

43 All requests by a data broker or a requestor who is making a  
44 request on behalf of and for the use of a data broker shall be denied.  
45 The form also shall include space for a requestor to certify that the  
46 requestor is not a data broker or is not making the request on behalf of  
47 or for the use of a data broker, and the requestor shall be required to  
48 provide this information for the request to be fulfilled.

1        Data obtained through a records request shall not be sold.

2        The form shall include space for the custodian to indicate which  
3 record will be made available, when the record will be available, and  
4 the fees to be charged. The form shall also include the following: (1)  
5 specific directions and procedures for requesting a record; (2) a  
6 statement as to whether prepayment of fees or a deposit is required; (3)  
7 the time period within which the public agency is required by  
8 P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented, to  
9 make the record available; (4) a statement of the requestor's right to  
10 challenge a decision by the public agency to deny access and the  
11 procedure for filing an appeal; (5) space for the custodian to list  
12 reasons if a request is denied in whole or in part; (6) space for the  
13 requestor to sign and date the form; (7) space for the custodian to sign  
14 and date the form if the request is fulfilled or denied. The custodian  
15 may require a deposit against costs for reproducing documents sought  
16 through **an anonymous** a request whenever the custodian anticipates  
17 that the information thus requested will cost in excess of \$5 to  
18 reproduce.

19        Custodians shall provide directions on how to submit requests for  
20 government records, including any required forms, on the public  
21 agency's website.

22        Custodians shall be permitted to provide an electronic response to  
23 any electronic records request if government records are available  
24 electronically.

25        g. A request for access to a government record shall be in writing  
26 and hand-delivered, mailed, transmitted electronically, or otherwise  
27 conveyed to the appropriate custodian. A public agency may make  
28 available to the public on its website an online form, portal, or  
29 software for transmitting requests electronically. A custodian shall  
30 promptly comply with a request to inspect, examine, copy, or provide  
31 a copy of a government record. If the custodian is unable to comply  
32 with a request for access, the custodian shall indicate the specific basis  
33 therefor on the request form and promptly return it to the requestor.  
34 The custodian shall sign and date the form and provide the requestor  
35 with a copy thereof. If the custodian of a government record asserts  
36 that part of a particular record is exempt from public access pursuant  
37 to P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented,  
38 the custodian shall delete or excise from a copy of the record that  
39 portion which the custodian asserts is exempt from access and shall  
40 promptly permit access to the remainder of the record. **If the**  
41 **government record requested is temporarily unavailable because it is**  
42 **in use or in storage, the custodian shall so advise the requestor and**  
43 **shall make arrangements to promptly make available a copy of the**  
44 **record.** **If a request for access to a government record would**  
45 **substantially disrupt agency operations, the custodian may deny access**  
46 **to the record after attempting to reach a reasonable solution with the**  
47 **requestor that accommodates the interests of the requestor and the**  
48 **agency.**

1        A party to a legal proceeding may not request a government record  
2 if the record sought is the subject of a court order in the legal  
3 proceeding or if compliance would otherwise be unreasonable,  
4 oppressive, or duplicative of already pending discovery request made  
5 in that legal proceeding, and a custodian shall not be required to  
6 complete such a request. The requestor shall be required to certify  
7 whether the government record is being sought in connection with a  
8 legal proceeding and identify the proceeding for the request to be  
9 fulfilled. For purposes of this provision, a party to a legal proceeding  
10 shall include a party in interest, any attorney representing that party,  
11 and any person acting as an agent for or on behalf of that party.

12        A custodian shall not be required to complete a request including  
13 for, but not limited to, mail, email, text messages, correspondence, or  
14 social media postings and messages, if the request does not identify  
15 specific individuals or accounts to be searched and is not confined to a  
16 discrete and limited time period and a specific subject matter, or if the  
17 custodian determines that the request would require research and the  
18 collection of information from the contents of government records and  
19 the creation of new government records setting forth that research and  
20 information.

21        h. Any officer or employee of a public agency who receives a  
22 request for access to a government record shall forward the request to  
23 the custodian of the record or direct the requestor to the custodian of  
24 the record. The request shall not be considered submitted until it is  
25 received by the custodian of records.

26        i. (1) Unless a shorter time period is otherwise provided by  
27 statute, regulation, or executive order, a custodian of a government  
28 record shall grant access to a government record or deny a request for  
29 access to a government record as soon as possible, but not later than  
30 seven business days after receiving the request, or 14 business days if  
31 the request is for a commercial purpose or if the records have to be  
32 reviewed by the public agency for the purpose of the agency's  
33 compliance with P.L.2020, c.125 (C.47:1B-1 et seq.), but the custodian  
34 shall notify the requestor of the additional response time within seven  
35 business days, provided that the record is currently available and not in  
36 storage or archived. The response time periods of seven or 14  
37 business days, as established in this subsection, shall be an additional  
38 seven business days longer if the public agency is a fire district which  
39 employs one or fewer full-time employees who serve as custodians.

40        In the event a records custodian is unable to fulfill a records  
41 request due to unforeseen circumstances or circumstances that  
42 otherwise reasonably necessitate additional time to fulfill the records  
43 request, the custodian shall be entitled to a reasonable extension of any  
44 response deadline and shall notify the requestor of the time extension  
45 within seven business days after receiving the request.

46        In the event a custodian fails to respond within seven business days  
47 or 14 business days, as appropriate, after receiving a request, the  
48 failure to respond shall be deemed a denial of the request, unless the

1 requestor has elected not to accurately identify themselves or to  
2 provide **[a name,]** an accurate address, email address, or telephone  
3 number [ , or other means of contacting the requestor]. If the  
4 requestor has elected not to accurately identify themselves or to  
5 provide **[a name,]** an accurate address, email address, or telephone  
6 number, [or other means of contacting the requestor,] the custodian  
7 shall not be required to respond until the requestor **[reappears before]**  
8 contacts the custodian seeking a response to the original request.

9 If the government record is in storage or archived, the requestor  
10 shall be so advised within seven or 14 business days, as appropriate,  
11 after the custodian receives the request. The requestor shall be advised  
12 by the custodian when the record can be made available, which shall  
13 be no more than 21 business days from the date the requestor is so  
14 advised. If the record is not made available by that time, access shall  
15 be deemed denied.

16 A public agency shall not be considered to be in possession of a  
17 public record that is created or maintained by another public agency  
18 and made available to the public agency either by remote access to a  
19 computer network or by distribution as a courtesy copy. A records  
20 custodian of a public agency that receives a request for such a record,  
21 shall not be obligated to provide the record to the requestor and shall  
22 direct the requestor within seven business days to the public agency  
23 that, to the best of their knowledge, created or maintains the requested  
24 record, at which time the request shall be considered completed.

25 The custodian shall not be required to complete an identical  
26 request for access to a government record from the same requestor if  
27 the information has not changed.

28 A requestor shall have 14 business days to retrieve the government  
29 records following notice from the custodian that the request has been  
30 completed and the records are available.

31 (2) During a period declared pursuant to the laws of this State as a  
32 state of emergency, public health emergency, or state of local disaster  
33 emergency, the deadlines by which to respond to a request for, or grant  
34 or deny access to, a government record under paragraph (1) of this  
35 subsection or subsection e. of this section shall not apply, provided,  
36 however, that the custodian of a government record shall make a  
37 reasonable effort, as the circumstances permit, to respond to a request  
38 for access to a government record within seven business days or 14  
39 business days, as appropriate, or as soon as possible thereafter.

40 j. A custodian shall **[post prominently in public view in the part**  
41 **or parts of the office or offices of the custodian that are open to or**  
42 **frequented by the public a statement that sets forth in clear, concise**  
43 **and specific terms the]** include information on the public agency's  
44 website and public records request form regarding a requestor's right  
45 to appeal a denial of, or failure to provide, access to a government  
46 record [by any person for inspection, examination, or copying or for  
47 purchase of copies thereof] and the procedure by which an appeal may

1 be filed, which shall include the website address and toll-free  
2 information line phone number of the Government Records Council.

3 k. The files maintained by the Office of the Public Defender that  
4 relate to the handling of any case shall be considered confidential and  
5 shall not be open to inspection by any person unless authorized by law,  
6 court order, or the State Public Defender.  
7 (cf: P.L.2023, c.113, s.2)

8  
9 4. Section 7 of P.L.2001, c.404 (C.47:1A-6) is amended to read as  
10 follows:

11 7. A person who is denied access to a government record by the  
12 custodian of the record, at the option of the requestor who is accurately  
13 identified by name, may, within 45 days of the date of denial:

14 institute a proceeding to challenge the custodian's decision by  
15 filing an action in Superior Court which shall be heard in the vicinage  
16 where it is filed by a Superior Court Judge who has been designated to  
17 hear such cases because of that judge's knowledge and expertise in  
18 matters relating to access to government records; or

19 in lieu of filing an action in Superior Court, file a complaint with  
20 the Government Records Council established pursuant to section 8 of  
21 P.L.2001, c.404 (C.47:1A-7).

22 The right to institute any proceeding under this section shall be  
23 solely that of the requestor. Any such proceeding shall proceed in a  
24 summary or expedited manner. The public agency shall have the  
25 burden of proving that the denial of access is authorized by law. If it is  
26 determined that access has been improperly denied, the court or  
27 **【agency head】** Government Records Council shall order that access be  
28 allowed. A requestor who prevails in any proceeding **【shall】** may be  
29 entitled to a reasonable attorney's fee. In determining whether to  
30 award attorney's fees, the court or the Government Records Council  
31 may consider whether the public agency is found to have knowingly  
32 and willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.), or to have  
33 unreasonably denied access.

34 If the records sought are produced by the public agency within  
35 seven business days of service of an action in Superior Court or a  
36 complaint before the Government Records Council, <sup>1</sup>upon notification  
37 to the Superior Court or the Government Records Council, <sup>1</sup> the matter  
38 shall be dismissed without prejudice and the requestor may be entitled  
39 to a reasonable attorney's fee if the custodian knew or should have  
40 known that the denial of access violated P.L.1963, c.73 (C.47:1A-1 et  
41 seq.).

42 (cf: P.L.2001, c.404, s.7)

43  
44 5. Section 8 of P.L.2001, c.404 (C.47:1A-7) is amended to read  
45 as follows:

46 8. a. (1) There is established in the Department of Community  
47 Affairs a Government Records Council. The council shall consist  
48 of the Commissioner of Community Affairs or the commissioner's

1 designee, [the Commissioner of Education or the commissioner's  
2 designee, and three public members appointed by the Governor,  
3 with the advice and consent of the Senate, not more than two of  
4 whom shall be of the same political party. The three public  
5 members shall serve during the term of the Governor making the  
6 appointment and until the appointment of a successor] who shall  
7 serve as Chair, and eight public members appointed as follows: four  
8 appointed by the Governor with the advice and consent of the  
9 Senate; two directly appointed by the Governor from persons  
10 recommended by the President of the Senate; and two directly  
11 appointed by the Governor from persons recommended by the  
12 Speaker of the General Assembly. Each public member shall serve  
13 for a term of five years and until a successor is appointed and  
14 qualified.

15 (2) Notwithstanding any provision of subsection a. (1) of this  
16 section, or any other law, rule, or regulation to the contrary, within  
17 90 days following the enactment date of P.L. , c. (pending  
18 before the Legislature as this bill), the Governor shall directly  
19 appoint eight public members to the council, each of whom shall  
20 serve for a term of three years and until a successor is appointed  
21 and qualified, as follows: two from persons recommended by the  
22 President of the Senate, two from persons recommended by the  
23 Speaker of the General Assembly, and four appointed at the sole  
24 discretion of the Governor. The terms of office of the members of  
25 the council serving on the date of enactment of P.L. , c (pending  
26 before the Legislature as this bill), shall expire upon the Governor's  
27 direct appointment of the new members pursuant to this subsection.

28 (3) A public member shall not hold any other State or local  
29 elected [or appointed] office [or employment] while serving as a  
30 member of the council. A public member shall [not receive a  
31 salary for service on the council but shall be reimbursed for  
32 reasonable and necessary expenses associated with serving on the  
33 council and may receive such per diem payment as may be provided  
34 in the annual appropriations act] receive a salary equivalent to that  
35 provided by law for a public member of the Local Finance Board of  
36 the Division of Local Government Services in the Department of  
37 Community Affairs. A member may be removed by the Governor  
38 for cause. Vacancies among the public members shall be filled [in  
39 the same manner in which the original appointment was made. The  
40 members of the council shall choose one of the public members to  
41 serve as the council's chair.] by appointment by the Governor,  
42 according to the provisions of subsection a. of this section, and for  
43 the remainder of the unexpired term. The council may employ an  
44 executive director and such professional and clerical staff as it  
45 deems necessary and may call upon the Department of Community  
46 Affairs for such assistance as it deems necessary and may be  
47 available to it.

- 1       b. The Government Records Council shall:  
2       establish an informal mediation program to facilitate the  
3       resolution of disputes regarding access to government records;  
4       receive, hear, review and adjudicate a complaint filed by any  
5       person concerning a denial of access to a government record by a  
6       records custodian;  
7       issue advisory opinions, on its own initiative, as to whether a  
8       particular type of record is a government record which is accessible  
9       to the public;  
10      prepare guidelines and an informational pamphlet for use by  
11      records custodians in complying with the law governing access to  
12      public records;  
13      prepare an informational pamphlet explaining the public's right  
14      of access to government records and the methods for resolving  
15      disputes regarding access, which records custodians shall make  
16      available to persons requesting access to a government record;  
17      prepare lists for use by records custodians of the types of records  
18      in the possession of public agencies which are government records;  
19      make training opportunities available for records custodians and  
20      other public officers and employees which explain the law  
21      governing access to public records; and  
22      operate an informational website and a toll-free helpline staffed  
23      by knowledgeable employees of the council during regular business  
24      hours which shall enable any person, including records custodians,  
25      to call for information regarding the law governing access to public  
26      records and allow any person to request mediation or to file a  
27      complaint with the council when access has been denied[;] .  
28      In implementing the provisions of [subsections d. and e. of] this  
29      section, the council shall: act, to the maximum extent possible, at  
30      the convenience of the parties; utilize video conferencing,  
31      teleconferencing, faxing of documents, e-mail and similar forms of  
32      modern communication; conduct virtual meetings and hearings,  
33      when practical and at the discretion of the council; and when in-  
34      person meetings are necessary, send representatives to meet with  
35      the parties at a location convenient to the parties.  
36      The council shall periodically review the information and format  
37      of its website and make such adjustments as shall be deemed  
38      necessary to ensure that the information is clearly presented,  
39      accessible, and useful for the general public. The council shall  
40      conduct such an initial review within six months following the  
41      effective date of P.L. , c. (pending before the Legislature as this  
42      bill).  
43      c. At the request of the council, a public agency shall produce  
44      documents and ensure the attendance of witnesses with respect to  
45      the council's investigation of any complaint or the holding of any  
46      hearing.  
47      d. Upon receipt of a written complaint signed by any person  
48      alleging that a custodian of a government record has improperly

1 denied that person access to a government record, the council shall  
2 offer the parties the opportunity to resolve the dispute through  
3 mediation. Mediation shall enable a person who has been denied  
4 access to a government record and the public agency that employs  
5 the records custodian who denied or failed to provide access thereto  
6 to attempt to mediate the dispute through a process whereby a  
7 neutral mediator, who shall be trained in mediation selected by the  
8 council, acts to encourage and facilitate the resolution of the  
9 dispute. Mediation shall be an informal, nonadversarial process  
10 having the objective of helping the parties reach a mutually  
11 acceptable, voluntary agreement. The mediator shall assist the  
12 parties in identifying issues, foster joint problem solving, and  
13 explore settlement alternatives.

14 e. If any party declines mediation or if mediation fails to  
15 resolve the matter to the satisfaction of all parties, the council shall  
16 initiate an investigation concerning the facts and circumstances set  
17 forth in the complaint. The council shall make a determination as  
18 to whether the complaint is within its jurisdiction or frivolous or  
19 without any reasonable factual basis. The council may assign staff  
20 attorneys to conduct the investigation, present findings, and make  
21 recommendations to the council. If the council shall conclude that  
22 the complaint is outside its jurisdiction, frivolous, or without factual  
23 basis, it shall reduce that conclusion to writing and transmit a copy  
24 thereof to the complainant and to the public agency that employs  
25 the records custodian against whom the complaint was filed.  
26 Otherwise, the council shall notify the public agency that employs  
27 the records custodian against whom the complaint was filed of the  
28 nature of the complaint and the facts and circumstances set forth  
29 therein. The public agency that employs the records custodian shall  
30 have the opportunity to present the board with any statement or  
31 information concerning the complaint which the **【custodian】**  
32 agency wishes. If the council is able to make a determination as to  
33 a record's accessibility based upon the complaint and the  
34 **【custodian's】** agency's response thereto, it shall reduce that  
35 conclusion to writing and transmit a copy thereof to the  
36 complainant and to the public agency that employs the records  
37 custodian against whom the complaint was filed. If the council is  
38 unable to make a determination as to a record's accessibility based  
39 upon the complaint and the **【custodian's】** agency's response thereto,  
40 the council shall conduct a hearing on the matter in conformity with  
41 the rules and regulations provided for hearings by a State agency in  
42 contested cases under the "Administrative Procedure Act,"  
43 P.L.1968, c.410 (C.52:14B-1 et seq.), insofar as they may be  
44 applicable and practicable. The council shall, by a majority vote of  
45 its members, render a decision as to whether the record which is the  
46 subject of the complaint is a government record which must be  
47 made available for public access pursuant to P.L.1963, c.73  
48 (C.47:1A-1 et seq.) as amended and supplemented. If the council

1 determines, by a majority vote of its members, that a custodian  
2 **【has】** is found to have knowingly and willfully violated P.L.1963,  
3 c.73 (C.47:1A-1 et seq.), as amended and supplemented, and 【is  
4 found】 to have unreasonably denied access under the totality of the  
5 circumstances, the council may impose the penalties provided for in  
6 section 12 of P.L.2001, c.404 (C.47:1A-11) on the public agency  
7 that employs the custodian. A decision of the council may be  
8 appealed to the Appellate Division of the Superior Court. Such  
9 appeals shall be filed within 30 days from the date the council  
10 renders a decision. A decision of the council shall not have value as  
11 a precedent for any case initiated in Superior Court pursuant to  
12 section 7 of P.L.2001, c.404 (C.47:1A-6). All proceedings of the  
13 council pursuant to this subsection shall be conducted as  
14 expeditiously as possible.

15 Beginning 18 months following the effective date of P.L. , c.  
16 (pending before the Legislature as this bill), the council shall  
17 adjudicate all complaints that come before it within 90 days of the  
18 complaint's filing, with the ability to extend for 30 days for good  
19 cause, exclusive of any time period during which the parties are  
20 engaged in a mediation process pursuant to this section. The  
21 council shall make such organizational adjustments and modify its  
22 procedures as it deems necessary to ensure that complaints are  
23 adjudicated in such a timeframe.

24 f. The council shall not charge any party a fee in regard to  
25 actions filed with the council. The council shall be subject to the  
26 provisions of the "Open Public Meetings Act," P.L.1975, c.231  
27 (C.10:4-6), except that the council may go into closed session  
28 during that portion of any proceeding during which the contents of a  
29 contested record would be disclosed. **【A requestor who prevails in**  
30 **any proceeding shall be entitled to a reasonable attorney's fee.】**

31 g. The council shall not have jurisdiction over the Judicial or  
32 Legislative Branches of State Government or any agency, officer, or  
33 employee of those branches.  
34 (cf: P.L.2001, c.404, s.8)

35  
36 6. Section 12 of P.L.2001, c.404 (C.47:1A-11) is amended to  
37 read as follows:

38 12. a. **【A】** If a public official, officer, employee, or custodian  
39 【who】 is found to have knowingly and willfully 【violates】 violated  
40 P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented,  
41 and 【is found】 to have unreasonably denied access under the  
42 totality of the circumstances, the public agency that employs the  
43 custodian, officer, employee, or official shall be subject to a civil  
44 penalty of \$1,000 for an initial violation, \$2,500 for a second  
45 violation that occurs within 10 years of an initial violation, and  
46 \$5,000 for a third violation that occurs within 10 years of an initial  
47 violation. 【This penalty】 The penalties authorized pursuant to this

1 subsection may be imposed by the courts or by the Government  
2 Records Council.

3 b. A requestor who is found to have sold the data obtained by a  
4 records request, who is found to have intentionally failed to certify  
5 that a records request is for a commercial purpose, who is a data  
6 broker, or who is making the request on behalf of and for the use of  
7 a data broker, and is found to have intentionally certified that the  
8 requestor is not a data broker or is not making the request on behalf  
9 of and for the use of a data broker, shall be subject to a civil penalty  
10 of \$1,000 for the first offense, \$2,500 for the second offense, and  
11 \$5,000 for each subsequent offense. The penalties may be imposed  
12 by the courts.

13 c. These penalties shall be collected and enforced in  
14 proceedings in accordance with the "Penalty Enforcement Law of  
15 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court  
16 governing actions for the collection of civil penalties. The Superior  
17 Court shall have jurisdiction of proceedings for the collection and  
18 enforcement of the penalty imposed by this section.

19 d. Appropriate disciplinary proceedings may be initiated  
20 against a public official, officer, employee or custodian against  
21 whom a penalty has been imposed.

22 (cf: P.L.2001, c.404, s.12)

23

24 7. Section 2 of P.L.2021, c.371 (C.47:1B-2) is amended to read  
25 as follows:

26 2. a. An authorized person seeking the redaction or nondisclosure  
27 of the home address of any covered person from certain records and  
28 Internet postings consistent with section 2 of P.L.2015, c.226  
29 (C.47:1-17), section 1 of P.L.1995, c.23 (C.47:1A-1.1), or section 6  
30 of P.L.2001, c.404 (C.47:1A-5) shall submit a request in accordance  
31 with section 1 of P.L.2021, c.371 (C.47:1B-1) to the Office of  
32 Information Privacy through the secure portal established by the  
33 office. The address shall only be subject to redaction or  
34 nondisclosure if a request is submitted to and approved by the  
35 Director of the Office of Information Privacy.

36 b. (1) A public agency shall redact or cease to disclose, in  
37 accordance with section 6 of P.L.2001, c.404 (C.47:1A-5) and  
38 section 1 of P.L.1995, c.23 (C.47:1A-1.1), respectively, the home  
39 address of a covered person approved by the Office of Information  
40 Privacy not later than 30 days following the approval. A public  
41 agency shall also discontinue the redaction or nondisclosure of the  
42 home address of any covered person for whom a revocation request  
43 has been approved not later than 30 days following the approval.

44 (2) A custodian of a public agency who makes a reasonable  
45 effort to comply with this subsection shall be presumed to have  
46 acted without willful, purposeful, or reckless disregard of the law.

47 c. An immediate family member who has sought and received  
48 approval under subsection a. of this section and who no longer

1 resides with the active, formerly active, or retired judicial officer,  
2 law enforcement officer, child protective investigator in the  
3 Division of Child Protection and Permanency, or prosecutor shall  
4 submit through the portal a revocation request not later than 30 days  
5 from the date on which the immediate family member no longer  
6 resided with the judicial officer, law enforcement officer, child  
7 protective investigator in the Division of Child Protection and  
8 Permanency, or prosecutor.

9 d. A person submitting a request pursuant to subsection a. of  
10 this section shall affirm in writing that the person understands that  
11 certain rights, duties, and obligations are affected as a result of the  
12 request, including:

13 (1) the receipt of certain notices from non-governmental entities  
14 as would otherwise be required pursuant to the "Municipal Land  
15 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.);

16 (2) the signing of petitions related to the nomination or election  
17 of a candidate to public office or related to any public question;

18 (3) the eligibility or requirements related to seeking or accepting  
19 the nomination for election or election to public office, or the  
20 appointment to any public position;

21 (4) the sale or purchase of a home or other property, recordation  
22 of a judgment, lien or other encumbrance on real or other property,  
23 and any relief granted based thereon;

24 (5) the ability to be notified of any class action suit or settlement;  
25 and

26 (6) any other legal, promotional, or official notice which would  
27 otherwise be provided to the person but for the redaction or  
28 nondisclosure of such person's home address pursuant to subsection  
29 a. of this section.

30 (cf: P.L.2023, c.113, s.4)

31

32 8. (New section) a. Notwithstanding any other law or rule or  
33 regulation to the contrary, whenever there is filed a verified  
34 complaint to the Superior Court of the county in which the request  
35 for access to government records was made under P.L.1963, c.73  
36 (C.47:1A-1 et seq.) alleging that a requestor has sought records  
37 thereunder for the purpose to harass a public agency, or to  
38 substantially interrupt government function, the court may issue a  
39 protective order limiting the number and scope of requests the  
40 requestor may make or order such other relief as it deems  
41 appropriate, including referral of the matter to mediation. The court  
42 may issue the protective order if it finds that the requestor has  
43 sought records under P.L.1963, c.73 (C.47:1A-1 et seq.) for the  
44 purpose of harassing the public agency, or to substantially interrupt  
45 government function, as the term harass is defined in N.J.S.2C:33-  
46 4. The complaint shall be accompanied by a declaration of facts by  
47 the public agency withholding the records demonstrating that it has  
48 complied with P.L.1963, c.73 (C.47:1A-1 et seq.) and has made a

1 good faith effort to reach an informal resolution of the issues  
2 relating to the records requests.

3 The requestor shall have notice and an opportunity to answer the  
4 allegations set forth in the petition submitted by the public agency.

5 The public agency shall have the burden of proof by clear and  
6 convincing evidence.

7 The court's consideration of a public agency's complaint for  
8 relief shall proceed in a summary or expedited manner.

9 b. The order specified in subsection a. of this section may limit,  
10 or, in appropriate circumstances, eliminate the public agency's duty  
11 to respond to government records requests from the requestor in the  
12 future.

13

14 9. (New section) a. A data broker business entity conducting  
15 business in this State shall register with the Division of Revenue  
16 and Enterprise Services in the Department of the Treasury. The  
17 division shall impose an annual fee of \$250 for each registration.  
18 The fee shall be deposited into the fund created pursuant to  
19 subsection c. of this section. For the purpose of this section, "data  
20 broker" shall have the same meaning as in section 1 of P.L.1995,  
21 c.23 (C.47:1A-1.1).

22 b. The Department of the Treasury may issue rules and  
23 regulations necessary to effectuate the purpose of this section. The  
24 rules and regulations shall be effective immediately upon filing  
25 with the Office of Administrative Law for a period not to exceed  
26 one year and may, thereafter, be amended, adopted, or readopted in  
27 accordance with the "Administrative Procedure Act," P.L.1968,  
28 c.410 (C.52:14B-1 et seq.).

29 c. There shall be created in the Department of the Treasury a  
30 dedicated, non-lapsing fund for providing grants to political  
31 subdivisions of the State for the purpose of providing access to  
32 government records electronically, including through the use of  
33 shared services agreements. The fund shall be administered by the  
34 State Treasurer. Monies in the fund shall be appropriated annually  
35 solely for this purpose.

36

37 10. (New section) The Attorney General shall establish a Police  
38 Record Access Improvement Task Force to investigate the existing  
39 statutes governing public access to police records and develop  
40 recommendations for necessary changes to the law.

41 The members of the Police Record Access Improvement Task  
42 Force shall be comprised of 12 members. The membership of the  
43 task force shall be as follows:

44 The Attorney General, or the Attorney's General designee, who  
45 shall serve ex officio, as Chair;

46 Seven public members, appointed by the Governor, one who is a  
47 member of law enforcement, one who is a county or municipal  
48 prosecutor, one who is a criminal defense attorney or public

1 defender, one who is a member of a social justice advocacy  
2 organization, one who is a member of the New Jersey Press  
3 Association, one who is a member of the New Jersey League of  
4 Municipalities, and one who is a member of the New Jersey  
5 Association of Counties;

6 Two public members, appointed by the Governor upon the  
7 recommendation of the President of the Senate; and

8 Two public members, appointed by the Governor upon the  
9 recommendation of the Speaker of the General Assembly.

10 The task force shall submit to the Governor and to the  
11 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
12 19.1), recommendations for changes to the law.

13 The Department of Law and Public Safety shall provide  
14 stenographic, clerical, and other administrative assistance and  
15 professional staff as the task force requires to carry out its work.  
16 The task force shall be entitled to call to its assistance and avail  
17 itself of the services of the employees of any State, county, or  
18 municipal department, board, bureau, commission, or agency as it  
19 may require and as may be available for its purposes.

20 The public members of the task force shall serve without  
21 compensation, but may be reimbursed for necessary and actual  
22 expenses incurred in the performance of their duties to the extent  
23 that funds are made available for that purpose.

24

25 11. (New section) a. The provisions of this section shall apply  
26 only to the New Jersey Division of Elections, the New Jersey  
27 Election Law Enforcement Commission, County Boards of  
28 Elections, County Superintendents of Elections, County Clerks,  
29 Municipal Clerks, Fire District Board Clerks, School District  
30 Business Administrators, and School District Board Secretaries,  
31 hereafter referred to as an “election agency” or “election agencies.”  
32 Except as otherwise provided for in this section, all provisions of  
33 this act, P.L. , c. (pending before the Legislature as this bill),  
34 shall apply to all election agencies. Nothing herein shall be  
35 construed to mean that an election agency is required to provide a  
36 record in response to a request for records, unless it has made or  
37 received and maintains said requested record pursuant to law or  
38 regulation.

39 b. Notwithstanding any other law, rule, or regulation to the  
40 contrary, except as otherwise provided in sections 2 and 3 of  
41 P.L.2021, c.371 (C.47:1B-1 et seq.), subsection b. of section 1 of  
42 P.L.1994, c.148 (C.19:31-3.2), or in any rules or regulations  
43 promulgated by the Secretary of State pursuant to subsection f. of  
44 this section, the following shall be records for which the provided  
45 information shall not be redacted by an election agency except for  
46 voter signatures, Social Security numbers, driver license numbers,  
47 and non-driver identification numbers:

- 1 (1) Voter registration forms and forms changing the provided  
2 information thereof;
  - 3 (2) Party affiliation forms and forms changing the provided  
4 information thereof;
  - 5 (3) Applications for a vote-by-mail ballot, except as otherwise  
6 provided in sections 3 and 13 of P.L.2020, c.70 (C.19:63-1 et seq.);
  - 7 (4) Forms or reports submitted to the Election Law Enforcement  
8 Commission;
  - 9 (5) Nominating petitions for any candidate for any elected  
10 office, which shall be provided in a manner that includes voter  
11 signatures on such petitions;
  - 12 (6) Petitions to recall an elected official, which shall be  
13 provided in a manner that includes voter signatures on such  
14 petitions;
  - 15 (7) Petitions or submissions for any public question or referenda  
16 to be considered by voters, which shall be provided in a manner that  
17 includes voter signatures on such petitions;
  - 18 (8) Any submissions, responses, objections, or challenges  
19 pertaining to a record referred to in this subsection; and
  - 20 (9) Any addendums, amendments, corrections, withdrawals, or  
21 accompanying forms or submissions pertaining to a record referred  
22 to in this subsection.
- 23 c. Notwithstanding any other law, rule, or regulation to the  
24 contrary, the following shall be records and information that an  
25 election agency shall make available to requestors for immediate  
26 access and transmission via email as soon as possible, but not later  
27 than two business days after receipt of the request, provided the  
28 request is not for a commercial purpose, for which a fee shall not be  
29 charged nor collected:
- 30 (1) Nominating petitions for any candidate for any elected office  
31 filed with the election agency within the preceding 90 days of the  
32 date the request is received;
  - 33 (2) Petitions to recall an elected official filed with the election  
34 agency within the preceding 90 days of the date the request is  
35 received;
  - 36 (3) Petitions or submissions for any public question or referenda  
37 to be considered by voters filed with the election agency within the  
38 preceding 90 days of the date the request is received;
  - 39 (4) Any submissions, responses, objections, or challenges filed  
40 with the election agency within the preceding 90 days pertaining to  
41 a record referred to in this subsection;
  - 42 (5) Any addendums, amendments, corrections, withdrawals, or  
43 accompanying forms or submissions filed with the election agency  
44 within the preceding 90 days pertaining to a record referred to in  
45 this subsection; and
  - 46 (6) The inspection and transmission deadline requirements of  
47 this subsection shall be deemed satisfied if an election agency posts

1 on its website the records and information referred to in this  
2 subsection.

3 d. Notwithstanding any other law, rule, or regulation to the  
4 contrary, the following in paragraphs (1) through (4) of this  
5 subsection shall be records and information that an election agency  
6 shall make available to requestors for immediate access and  
7 transmission via email as soon as possible, provided the request  
8 pertains only to an election to be held within 16 days after the date  
9 of the request and is not for a commercial purpose. The  
10 transmission shall be not later than two business days after receipt  
11 of the request when said request is made between one and 15 days  
12 before the date of the election pertaining to the request. For any  
13 request submitted the day before an election by noon, the request  
14 shall be completed by noon the day of the election. A fee shall not  
15 be charged nor collected. This subsection shall apply to:

16 (1) Lists, in a format capable of being sorted by the requestor, of  
17 registered voters, including their name, address, party affiliation,  
18 and municipal voting ward and district, who have requested, been  
19 mailed, or returned a vote-by-mail ballot, including the dates the  
20 ballot was requested by the voter, mailed to the voter, and received  
21 by the appropriate election agency;

22 (2) Lists, in a format capable of being sorted by the requestor, of  
23 registered voters, including their name, address, party affiliation,  
24 and municipal voting ward and district, who have cast a vote during  
25 the early voting period, including the date and polling location the  
26 vote was cast;

27 (3) The inspection and transmission deadline requirements of this  
28 subsection shall be deemed satisfied if an election agency posts on  
29 its website the records and information referred to in this  
30 subsection; and

31 (4) Whenever the requirements of this subsection would cause a  
32 voter's privacy to be violated, the information shall be provided in a  
33 manner that maintains the privacy of the voter.

34 e. The following records or information shall not be subject to  
35 disclosure pursuant to a request for public records:

36 (1) Ballots marked by a voter, vote tabulations, or election  
37 results for any election prior to the time of the closing of the polls  
38 on the date of the election, except as otherwise provided for by law,  
39 rule, or regulation; and

40 (2) Manuals instructions, specifications, technical information,  
41 or programming code of computers, software, applications,  
42 networks, tablets, voting machines, printers, scanners, and any other  
43 equipment, systems, policies or plans used for the conduct of  
44 elections, the disclosure of which, could have the potential to  
45 jeopardize the security, integrity or accuracy of the conduct of  
46 elections, tabulation of votes, or determination of election results,  
47 except as otherwise provided for by law, rule, or regulation, or in

1 response to a subpoena or order of a court or tribunal of competent  
2 jurisdiction.

3 f. The Secretary of State may adopt regulations necessary to  
4 effectuate the purposes of this act, which regulations shall be  
5 effective immediately upon filing with the Office of Administrative  
6 Law for a period not to exceed 18 months, and may, thereafter, be  
7 amended, adopted or readopted in accordance with the provisions of  
8 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
9 seq.).

10

11 12. (New section) a. The provisions of section 1 of P.L.1963,  
12 c.73 (C.47:1A-1), section 1 of P.L.1995, c.23 (C.47:1A-1.1),  
13 sections 6, 7, and 8 of P.L.2001, c.404 (C.47:1A-5 through 47:1A-  
14 7), and section 2 of P.L.2021, c.371 (C.47:1B-2), as amended by  
15 sections 1 through 5 and section 7 of P.L. , c. (pending before  
16 the Legislature as this bill), shall apply retroactively to all  
17 complaints and appeals pending before the Government Records  
18 Council, the Superior Court or the Supreme Court of New Jersey  
19 filed prior to the effective date of P.L. , c. (pending before the  
20 Legislature as this bill), provided, however, that nothing in this  
21 section shall be construed as to retroactively reduce the statute of  
22 limitations governing any complaint or appeal pending before the  
23 Government Records Council, the Superior Court or the Supreme  
24 Court of New Jersey.

25 b. All complaints and appeals pending before the Government  
26 Records Council or the Superior Court filed prior to the effective  
27 date of P.L. , c. (pending before the Legislature as this bill),  
28 either anonymously or using a fictitious name or identity, may be  
29 dismissed with prejudice upon a motion by the public agency,  
30 unless the complainant files an amendment to their complaint that  
31 accurately identifies their name and mailing address within 90 days  
32 of the effective date of P.L. , c. (pending before the Legislature  
33 as this bill).

34 c. The parties to any complaint or appeal pending before the  
35 Government Records Council, the Superior Court or the Supreme  
36 Court of New Jersey filed prior to the effective date of P.L. , c.  
37 (pending before the Legislature as this bill), shall be permitted to  
38 file an amendment to their respective complaints and answers  
39 within 90 days of the effective date of P.L. , c. (pending before  
40 the Legislature as this bill).

41

42 13. a. There is hereby appropriated \$4,000,000 from the State  
43 General Fund to the Department of Community Affairs to provide  
44 grants to political subdivisions of the State for the purpose of  
45 making government records that are accessible under P.L.1963, c.73  
46 (C.47:1A-1 et seq.) available electronically, including through the  
47 use of shared services agreements.

1       b. There is hereby appropriated \$4,000,000 from the State  
2 General Fund to the Department of Community Affairs for the  
3 Government Records Council.

4  
5       14. This act shall take effect 30 days following the date of  
6 enactment, except as otherwise provided for in this act, and except  
7 that section 9 and section 11 shall take effect eight months  
8 following the date of enactment. The Attorney General,  
9 Department of Community Affairs, the Government Records  
10 Council, the Department of the Treasury, and the Department of  
11 State may take any anticipatory administrative action in advance as  
12 shall be necessary for the implementation of this act.

[Second Reprint]

**ASSEMBLY, No. 4045**

**STATE OF NEW JERSEY**  
**221<sup>st</sup> LEGISLATURE**

INTRODUCED MARCH 4, 2024

**Sponsored by:**

**Assemblyman JOE DANIELSEN**

**District 17 (Middlesex and Somerset)**

**Assemblywoman VICTORIA A. FLYNN**

**District 13 (Monmouth)**

**Co-Sponsored by:**

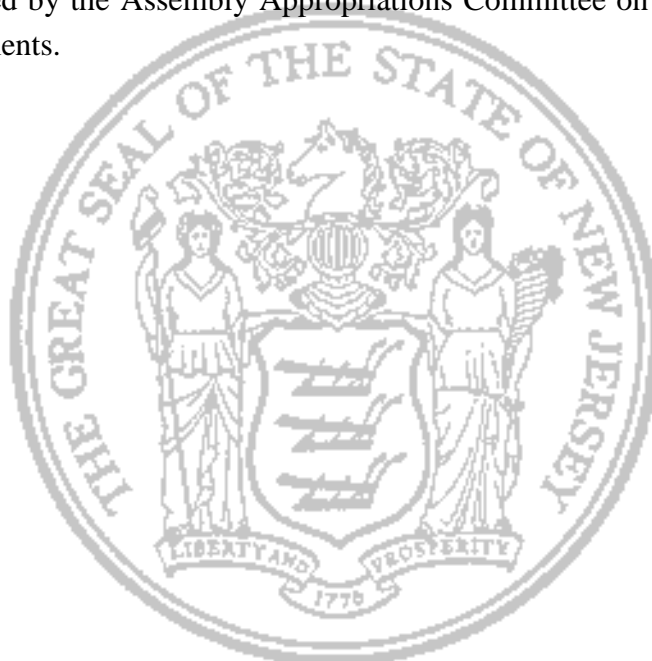
**Assemblyman Atkins**

**SYNOPSIS**

Makes various changes to process for access to government records; appropriates \$10 million.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on May 10, 2024, with amendments.



**(Sponsorship Updated As Of: 4/11/2024)**

1 AN ACT concerning access to government records, amending and  
2 supplementing various parts of the statutory law, and making an  
3 appropriation.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 <sup>2</sup>**[1.** Section 1 of P.L.1963, c.73 (C.47:1A-1) is amended to read  
9 as follows:

10 1. The Legislature finds and declares it to be the public policy  
11 of this State that:

12 government records shall be readily accessible for inspection,  
13 copying, or examination by the citizens of this State, with certain  
14 exceptions, for the protection of the public interest, and any  
15 limitations on the right of access accorded by P.L.1963, c.73  
16 (C.47:1A-1 et seq.) as amended and supplemented, shall be  
17 construed in favor of the public's right of access;

18 all government records shall be subject to public access unless  
19 exempt from such access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as  
20 amended and supplemented; any other statute; resolution of either  
21 or both houses of the Legislature; regulation promulgated under the  
22 authority of any statute or Executive Order of the Governor;  
23 Executive Order of the Governor; Rules of Court; any federal law,  
24 federal regulation, or federal order;

25 a public agency has a responsibility and an obligation to  
26 safeguard from public access a citizen's personal information with  
27 which it has been entrusted, or information that might reasonably  
28 lead to disclosure of a person's personal information, when  
29 disclosure thereof would violate the citizen's reasonable expectation  
30 of privacy, or when the public agency has reason to believe that  
31 disclosure of such personal information may result in harassment,  
32 unwanted solicitation, identity theft, or opportunities for other  
33 criminal acts; and

34 nothing contained in P.L.1963, c.73 (C.47:1A-1 et seq.), as  
35 amended and supplemented, shall be construed as affecting in any  
36 way the common law right of access to any record, including but  
37 not limited to criminal investigatory records of a law enforcement  
38 agency.

39 (cf: P.L.2001, c.404, s.1)<sup>2</sup>

40  
41 <sup>2</sup>**[2.]** 1.<sup>2</sup> Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended  
42 to read as follows:

43 1. As used in P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and  
44 supplemented:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ASL committee amendments adopted March 11, 2024.

<sup>2</sup>Assembly AAP committee amendments adopted May 10, 2024.

1 "Biotechnology" means any technique that uses living organisms,  
2 or parts of living organisms, to make or modify products, to improve  
3 plants or animals, or to develop micro-organisms for specific uses;  
4 including the industrial use of recombinant DNA, cell fusion, and  
5 novel bioprocessing techniques.

6 "Child protective investigator in the Division of Child Protection  
7 and Permanency" means an employee of the Division of Child  
8 Protection and Permanency in the Department of Children and  
9 Families whose primary duty is to investigate reports of child abuse  
10 and neglect, or any other employee of the Department of Children and  
11 Families whose duties include investigation, response to, or review of  
12 allegations of child abuse and neglect.

13 "Commercial purpose" means the direct or indirect use of any  
14 part of a government record for sale, resale, solicitation, rent, or  
15 lease of a service, or any use by which the user expects a profit  
16 either through commission, salary, or fee. "Commercial purpose"  
17 shall not include <sup>2</sup>[using, distributing, gathering, procuring,  
18 transmitting, compiling, editing, disseminating, or publishing of  
19 information or data] the use of a government record for any  
20 purpose<sup>2</sup> by <sup>2</sup>:

21 (1)<sup>2</sup> the news media, or any parent company, subsidiary, or  
22 affiliate of any news media, as defined by section 2 of P.L.1977,  
23 c.253 (C.2A:84A-21a) <sup>2</sup>[, or by] ;

24 (2)<sup>2</sup> any news, journalistic, educational, scientific, scholarly, or  
25 governmental organization <sup>2</sup>[, or by] ;

26 (3)<sup>2</sup> any person authorized to act on behalf of a candidate  
27 committee, joint candidate committee, political committee,  
28 continuing political committee, political party committee, or  
29 legislative leadership committee, as defined by section 3 of  
30 P.L.1973, c.83 (C.19:44A-3), registered with the New Jersey  
31 Election Law Enforcement Commission <sup>2</sup>;

32 (4) any labor organization;

33 (5) any contractor signatory to a collective bargaining agreement  
34 seeking information material to the enforcement of State or federal  
35 statutes or regulations regarding, but not limited to, wage and hour  
36 protections, workplace safety, or public procurement and public  
37 bidding, including, but not limited to, requests for certified payrolls  
38 or information about all bids submitted in response to a public  
39 procurement process subsequent to the deadline for the submission  
40 of all bids for that solicitation;

41 (6) any employee, agent, contractor, or affiliates of any entity  
42 identified in paragraphs (1) through (5) of this definition in this  
43 section; or

44 (7) any non-profit entity, including organizations or individuals  
45 qualified for exemption from federal taxation pursuant to section  
46 501(c)(3) of the federal Internal Revenue Code, 26 U.S.C. s.501(c)(3)  
47 and section 501(c)(4) of the federal Internal Revenue Code, 26 U.S.C.

1 s.501(c)(4), when the entity does not sell, resell, solicit, rent, or lease a  
2 government record to an unaffiliated third party in a way in which the  
3 entity expects a fee<sup>2</sup> .

4 "Constituent" means any State resident or other person  
5 communicating with a member of the Legislature.

6 "Criminal investigatory record" means a record which is not  
7 required by law to be made, maintained or kept on file that is held by a  
8 law enforcement agency which pertains to any criminal investigation  
9 or related civil enforcement proceeding.

10 "Custodian of a government record" or "custodian" means in the  
11 case of a municipality, the municipal clerk and in the case of any other  
12 public agency, the officer officially designated by formal action of that  
13 agency's director or governing body, as the case may be.

14 <sup>2</sup>["Data broker" means a business that knowingly collects and sells  
15 to third parties the personal information of a consumer with whom the  
16 business does not have a direct relationship.]<sup>2</sup>

17 "Government record" or "record" means any paper, written or  
18 printed book, document, drawing, map, plan, photograph, microfilm,  
19 data processed or image processed document, information stored or  
20 maintained electronically or by sound-recording or in a similar device,  
21 or any copy thereof, that has been made, maintained or kept on file in  
22 the course of his or its official business by any officer, commission,  
23 agency or authority of the State or of any political subdivision thereof,  
24 including subordinate boards thereof, or that has been received in the  
25 course of his or its official business by any such officer, commission,  
26 agency, or authority of the State or of any political subdivision thereof,  
27 including subordinate boards thereof. The terms shall not include  
28 inter-agency or intra-agency advisory, consultative, **[or]** <sup>2</sup>or<sup>2</sup>  
29 deliberative <sup>2</sup>[, or draft]<sup>2</sup> material <sup>2</sup>[, including notes generated and  
30 used to prepare final reports, documents, or records.]<sup>2</sup>

31 <sup>2</sup>"Labor organization" means any organization which exists and is  
32 constituted for the purpose, in whole or in part, of collective  
33 bargaining, or of dealing with employers concerning grievances, terms  
34 or conditions of employment, or of other mutual aid or protection in  
35 connection with employment<sup>2</sup>.

36 A government record shall not include the following information  
37 which is deemed to be confidential for the purposes of P.L.1963, c.73  
38 (C.47:1A-1 et seq.) as amended and supplemented:

39 information received by a member of the Legislature from a  
40 constituent or information held by a member of the Legislature  
41 concerning a constituent, including, but not limited to, information in  
42 written form or contained in any e-mail or computer data base, or in  
43 any telephone record whatsoever, unless it is information the  
44 constituent is required by law to transmit;

45 any memorandum, correspondence, notes, report or other  
46 communication prepared by, or for, the specific use of a member of the  
47 Legislature in the course of the member's official duties, except that

1 this provision shall not apply to an otherwise publicly-accessible  
2 report which is required by law to be submitted to the Legislature or its  
3 members;

4 any copy, reproduction or facsimile of any photograph, negative or  
5 print, including instant photographs and videotapes of the body, or any  
6 portion of the body, of a deceased person, taken by or for the medical  
7 examiner at the scene of death or in the course of a post mortem  
8 examination or autopsy made by or caused to be made by the medical  
9 examiner except <sup>2</sup>]:

10 when used in a criminal action or proceeding in this State which  
11 relates to the death of that person,

12 for the use as a court of this State permits, by order after good  
13 cause has been shown and after written notification of the request for  
14 the court order has been served at least five days before the order is  
15 made upon the county prosecutor for the county in which the post  
16 mortem examination or autopsy occurred,

17 for use in the field of forensic pathology or for use in medical or  
18 scientific education or research, or ]

19 for use by a legal next of kin, a legal representative, or an  
20 attending physician of the deceased person, for use as a court of this  
21 State permits, or<sup>2</sup> for use by any law enforcement agency in this State  
22 or any other state or federal law enforcement agency;

23 criminal investigatory records;

24 the portion of any criminal record concerning a person's detection,  
25 apprehension, arrest, detention, trial or disposition for unlawful  
26 manufacturing, distributing, or dispensing, or possessing or having  
27 under control with intent to manufacture, distribute, or dispense,  
28 marijuana or hashish in violation of paragraph (11) of subsection b. of  
29 N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation  
30 of paragraph (12) of subsection b. of that section, or a violation of  
31 either of those paragraphs and a violation of subsection a. of section 1  
32 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of  
33 P.L.1997, c.327 (C.2C:35-7.1) for distributing, dispensing, or  
34 possessing, or having under control with intent to distribute or  
35 dispense, on or within 1,000 feet of any school property, or on or  
36 within 500 feet of the real property comprising a public housing  
37 facility, public park, or public building, or for obtaining, possessing,  
38 using, being under the influence of, or failing to make lawful  
39 disposition of marijuana or hashish in violation of paragraph (3) or (4)  
40 of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-10,  
41 or for a violation of any of those provisions and a violation of  
42 N.J.S.2C:36-2 for using or possessing with intent to use drug  
43 paraphernalia with that marijuana or hashish;

44 victims' records, except that a victim of a crime shall have access  
45 to the victim's own records;

46 any written request by a crime victim for a record to which the  
47 victim is entitled to access as provided in this section, including, but

1 not limited to, any law enforcement agency report, domestic violence  
2 offense report, and temporary or permanent restraining order;  
3 personal firearms records, except for use by any person authorized  
4 by law to have access to these records or for use by any government  
5 agency, including any court or law enforcement agency, for purposes  
6 of the administration of justice;  
7 personal identifying information received by the Division of Fish  
8 and Wildlife in the Department of Environmental Protection in  
9 connection with the issuance of any license authorizing hunting with a  
10 firearm<sup>1</sup>. For the purposes of this paragraph, personal identifying  
11 information shall include, but not be limited to, identity, name,  
12 address, social security number, telephone number, fax number,  
13 driver's license number, email address, or social media address of any  
14 applicant or licensee<sup>1</sup>;

15 trade secrets and proprietary commercial or financial information  
16 obtained from any source. For the purposes of this paragraph, trade  
17 secrets shall include <sup>1</sup>[data processing] software, applications, and  
18 code obtained by a public body under a licensing agreement which  
19 prohibits its disclosure;

20 any record within the attorney-client privilege. This paragraph  
21 shall not be construed as exempting from access attorney or consultant  
22 bills or invoices except that such bills or invoices may be redacted to  
23 remove any information protected by the attorney-client privilege;

24 administrative or technical information regarding computer  
25 hardware, tablets, telephones, <sup>2</sup>[and] electronic computing<sup>2</sup> devices,  
26 <sup>2</sup>[or]<sup>2</sup> software <sup>2</sup>[,]<sup>2</sup> applications, and networks <sup>1</sup>[which, if disclosed,  
27 would jeopardize computer security]<sup>2</sup> or devices which operate on or  
28 as a part of a computer network or related technologies within the  
29 same, which shall include system logs, event logs, transaction logs,  
30 tracing logs, or any logs which are reasonably construed to be similar  
31 to the same and generated by the devices or servers covered within this  
32 paragraph, which, if disclosed, could jeopardize computer security<sup>2</sup> ,  
33 or related technologies;

34 emergency or security information or procedures for any buildings  
35 or facility which, if disclosed, would jeopardize security of the  
36 building or facility or persons therein;

37 security measures and surveillance techniques which, if disclosed,  
38 would create a risk to the safety of persons, property, electronic data or  
39 software;

40 security alarm system activity and access reports, including video  
41 footage, for any public building, facility, or grounds unless the request  
42 identifies a specific incident that occurred, <sup>2</sup>or<sup>2</sup> a specific date <sup>2</sup>[,]<sup>2</sup>  
43 and <sup>2</sup>[a]<sup>2</sup> limited time period at a particular public building, facility,  
44 or grounds <sup>2</sup>, and is deemed not to compromise the integrity of the  
45 security system by revealing capabilities and vulnerabilities of the  
46 system<sup>2</sup> ;

1 information which, if disclosed, would give an advantage to  
2 competitors or bidders, including detailed or itemized cost estimates  
3 prior to bid opening;  
4 information generated by or on behalf of public employers or  
5 public employees in connection with any sexual harassment complaint  
6 filed with a public employer or with any grievance filed by or against  
7 an individual or in connection with collective negotiations, including  
8 documents and statements of strategy or negotiating position;  
9 <sup>2</sup>[information related to strategies or negotiating positions that  
10 would unfairly prejudice or impair contract negotiations;]<sup>2</sup>  
11 information which is a communication between a public agency  
12 and its insurance carrier, administrative service organization or risk  
13 management office;  
14 information which is to be kept confidential pursuant to court  
15 order;  
16 any copy of form DD-214, NGB-22, or that form, issued by the  
17 United States Government, or any other certificate of honorable  
18 discharge, or copy thereof, from active service or the reserves of a  
19 branch of the Armed Forces of the United States, or from service in the  
20 organized militia of the State, that has been filed by an individual with  
21 a public agency, except that a veteran or the veteran's spouse or  
22 surviving spouse shall have access to the veteran's own records;  
23 any copy of an oath of allegiance, oath of office or any affirmation  
24 taken upon assuming the duties of any public office, or that oath or  
25 affirmation, taken by a current or former officer or employee in any  
26 public office or position in this State or in any county or municipality  
27 of this State, including members of the Legislative Branch, Executive  
28 Branch, Judicial Branch, and all law enforcement entities, except that  
29 the full name, title, and oath date of that person contained therein shall  
30 not be deemed confidential;  
31 that portion of any document which discloses the social security  
32 number, credit card number, **[unlisted]** debit card number, bank  
33 account information, month and day of birth, <sup>2</sup>any personal<sup>2</sup> email  
34 address <sup>2</sup>required by a public agency for government applications,  
35 services, or programs<sup>2</sup> , any telephone number or driver license  
36 number of any person, or, in accordance with section 2 of P.L.2021,  
37 c.371 (C.47:1B-2), that portion of any document which discloses the  
38 home address, whether a primary or secondary residence, of any  
39 active, formerly active, or retired judicial officer, law enforcement  
40 officer, child protective investigator in the Division of Child Protection  
41 and Permanency, or prosecutor, or, as defined in section 1 of P.L.2021,  
42 c.371 (C.47:1B-1), any immediate family member thereof; except for  
43 use by any government agency, including any court or law  
44 enforcement agency, in carrying out its functions, or any private  
45 person or entity acting on behalf thereof, or any private person or  
46 entity seeking to enforce payment of court-ordered child support;  
47 except with respect to the disclosure of driver information by the New

1 Jersey Motor Vehicle Commission as permitted by section 2 of  
2 P.L.1997, c.188 (C.39:2-3.4); except with respect to the disclosure of  
3 information included in records and documents maintained by the  
4 Department of the Treasury in connection with the State's business  
5 registry programs; and except that a social security number contained  
6 in a record required by law to be made, maintained or kept on file by a  
7 public agency shall be disclosed when access to the document or  
8 disclosure of that information is not otherwise prohibited by State or  
9 federal law, regulation or order or by State statute, resolution of either  
10 or both houses of the Legislature, Executive Order of the Governor,  
11 rule of court or regulation promulgated under the authority of any  
12 statute or executive order of the Governor;

13 that portion of any document that discloses the personal identifying  
14 information of any person provided to a public agency for the sole  
15 purpose of receiving official notifications;

16 a list of persons identifying themselves as being in need of special  
17 assistance in the event of an emergency maintained by a municipality  
18 for public safety purposes pursuant to section 1 of P.L.2017, c.266  
19 (C.40:48-2.67), and their personal identifying information; [and]

20 a list of persons identifying themselves as being in need of special  
21 assistance in the event of an emergency maintained by a county for  
22 public safety purposes pursuant to section 6 of P.L.2011, c.178  
23 (C.App.A:9-43.13), and their personal identifying information;

24 that portion of any document that requires and would disclose  
25 personal identifying information of persons under the age of 18 years,  
26 <sup>2</sup>[including names,]<sup>2</sup> except with respect to the disclosure of driver  
27 information by the New Jersey Motor Vehicle Commission as  
28 permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4) or the  
29 disclosure of driver information to any insurer or insurance support  
30 organization, or a self-insured entity, or its agents, employees, or  
31 contractors, for use in connection with claims investigation activities,  
32 antifraud activities, rating, or underwriting, and except with respect to  
33 the disclosure of voter information on voter and election records  
34 pursuant to section <sup>2</sup>[11] <sup>8</sup> of P.L. , c. (C. ) (pending before  
35 the Legislature as this bill);

36 personal identifying information disclosed on domestic animal  
37 permits, licenses, and registration;

38 structured reference data that helps to sort and identify attributes of  
39 the information it describes, referred to as metadata, or any  
40 extrapolation or compilation thereof <sup>2</sup>, which shall include the SMTP  
41 header properties of emails, except that portion that identifies  
42 authorship, identity of editor, and time of change<sup>2</sup>;

43 New Jersey State Firemen's Association financial relief  
44 applications;

45 owner and maintenance manuals;

46 data classified under the "Health Insurance Portability and  
47 Accountability Act of 1996," Pub.L.104-191;

1 <sup>2</sup>logs of telephone calls, emails, or texts;<sup>2</sup> and  
2 <sup>2</sup>electronic or paper calendars for individuals  
3 any indecent or graphic images of a person's intimate parts, as  
4 defined in section 10 of P.L. , c. (C. ) (pending before the  
5 Legislature as this bill), that are captured in a photograph or video  
6 recording without the prior written consent of the subject of the  
7 photograph or video footage, as defined in section 10 of P.L. ,  
8 c. (C. ) (pending before the Legislature as this bill)<sup>2</sup>.

9 A government record shall not include, with regard to any public  
10 institution of higher education, the following information which is  
11 deemed to be privileged and confidential:

12 pedagogical, scholarly and/or academic research records and/or the  
13 specific details of any research project conducted under the auspices of  
14 a public higher education institution in New Jersey, including, but not  
15 limited to, research, development information, testing procedures, or  
16 information regarding test participants, related to the development or  
17 testing of any pharmaceutical or pharmaceutical delivery system,  
18 except that a custodian may not deny inspection of a government  
19 record or part thereof that gives the name, title, expenditures, source  
20 and amounts of funding and date when the final project summary of  
21 any research will be available;

22 test questions, scoring keys and other examination data pertaining  
23 to the administration of an examination for employment or academic  
24 examination;

25 records of pursuit of charitable contributions or records containing  
26 the identity of a donor of a gift if the donor requires non-disclosure of  
27 the donor's identity as a condition of making the gift provided that the  
28 donor has not received any benefits of or from the institution of higher  
29 education in connection with such gift other than a request for  
30 memorialization or dedication;

31 valuable or rare collections of books or documents obtained by  
32 gift, grant, bequest or devise conditioned upon limited public access;

33 information contained on individual admission applications; and  
34 information concerning student records or grievance or  
35 disciplinary proceedings against a student to the extent disclosure  
36 would reveal the identity of the student.

37 <sup>2</sup>Nothing in this section shall be construed to limit the  
38 requirements to provide and make publicly available the  
39 information pursuant to section 5 of P.L.1963, c.150 (C.34:11-  
40 56.29) and section 5 of P.L.1999, c.238 (C.34:11-56.52).<sup>2</sup>

41 "Judicial officer" means any active, formerly active, or retired  
42 federal, state, county, or municipal judge, including a judge of the Tax  
43 Court and any other court of limited jurisdiction established, altered, or  
44 abolished by law, a judge of the Office of Administrative Law, a judge  
45 of the Division of Workers' Compensation, and any other judge  
46 established by law who serves in the executive branch.

1 "Law enforcement agency" means a public agency, or part thereof,  
2 determined by the Attorney General to have law enforcement  
3 responsibilities.

4 "Law enforcement officer" means a person whose public duties  
5 include the power to act as an officer for the detection, apprehension,  
6 arrest, and conviction of offenders against the laws of this State.

7 "Member of the Legislature" means any person elected or selected  
8 to serve in the New Jersey Senate or General Assembly.

9 "Personal firearms record" means any information contained in a  
10 background investigation conducted by the chief of police, the county  
11 prosecutor, or the Superintendent of State Police, of any applicant for a  
12 permit to purchase a handgun, firearms identification card license, or  
13 firearms registration; any application for a permit to purchase a  
14 handgun, firearms identification card license, or firearms registration;  
15 any document reflecting the issuance or denial of a permit to purchase  
16 a handgun, firearms identification card license, or firearms  
17 registration; and any permit to purchase a handgun, firearms  
18 identification card license, or any firearms license, certification,  
19 certificate, form of register, or registration statement. For the purposes  
20 of this paragraph, information contained in a background investigation  
21 shall include, but not be limited to, identity, name, address, social  
22 security number, [phone] telephone number, fax number, driver's  
23 license number, email address, or social media address of any  
24 applicant, licensee, registrant, or permit holder.

25 <sup>2</sup>["Personal identifying information" means information that may  
26 be used, alone or in conjunction with any other information, to identify  
27 a specific individual. For purposes of this act, personal identifying  
28 information shall include, but shall not be limited to, the following  
29 data elements: name, social security number, credit card number, debit  
30 card number, bank account information, month and day of birth, email  
31 address, any telephone number, the street address portion of any  
32 person's primary or secondary home address, or driver license number  
33 of any person.]<sup>2</sup>

34 "Public agency" or "agency" means any of the principal  
35 departments in the Executive Branch of State Government, and any  
36 division, board, bureau, office, commission or other instrumentality  
37 within or created by such department; the Legislature of the State and  
38 any office, board, bureau or commission within or created by the  
39 Legislative Branch; and any independent State authority, commission,  
40 instrumentality or agency. The terms also mean any political  
41 subdivision of the State or combination of political subdivisions, and  
42 any division, board, bureau, office, commission or other  
43 instrumentality within or created by a political subdivision of the State  
44 or combination of political subdivisions, and any independent  
45 authority, commission, instrumentality or agency created by a political  
46 subdivision or combination of political subdivisions.

47 "Victim of a crime" means a person who has suffered personal or  
48 psychological injury or death or incurs loss of or injury to personal or

1 real property as a result of a crime, or if such a person is deceased or  
2 incapacitated, a member of that person's immediate family.

3 "Victim's record" means an individually identifiable file or  
4 document held by a victims' rights agency which pertains directly to a  
5 victim of a crime except that a victim of a crime shall have access to  
6 the victim's own records.

7 "Victims' rights agency" means a public agency, or part thereof,  
8 the primary responsibility of which is providing services, including,  
9 but not limited to, food, shelter, or clothing, medical, psychiatric,  
10 psychological or legal services or referrals, information and referral  
11 services, counseling and support services, or financial services to  
12 victims of crimes, including victims of sexual assault, domestic  
13 violence, violent crime, child endangerment, child abuse or child  
14 neglect, and the Victims of Crime Compensation Board, established  
15 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as the  
16 Victims of Crime Compensation Office pursuant to P.L.2007, c.95  
17 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.

18 <sup>2</sup>As used in this section, "personal identifying information" means  
19 information that may be used, alone or in conjunction with any other  
20 information, to identify a specific individual. Personal identifying  
21 information shall include, but shall not be limited to, the following  
22 data elements: name, social security number, credit card number, debit  
23 card number, bank account information, month and day of birth, any  
24 personal email address required by a public agency for government  
25 applications, services, or programs, personal telephone number, the  
26 street address portion of any person's primary or secondary home  
27 address, or driver license number of any person. "Personal identifying  
28 information" shall not include any street address, mailing address,  
29 email address, or telephone number of a public agency. "Personal  
30 identifying information" shall not include the email address of a  
31 governmental affairs agent.<sup>2</sup>

32 (cf: P.L.2023, c.113, s.1)

33

34 <sup>2</sup>[3.] 2.<sup>2</sup> Section 6 of P.L.2001, c.404 (C.47:1A-5) is amended to  
35 read as follows:

36 6. a. The custodian of a government record shall permit the record  
37 to be inspected, examined, and copied by any person during regular  
38 business hours; or in the case of a municipality having a population of  
39 5,000 or fewer according to the most recent federal decennial census, a  
40 board of education having a total district enrollment of 500 or fewer,  
41 or a public authority having less than \$10 million in assets, during not  
42 less than six regular business hours over not less than three business  
43 days per week or the entity's regularly-scheduled business hours,  
44 whichever is less; unless a government record is exempt from public  
45 access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and  
46 supplemented; any other statute; resolution of either or both houses of  
47 the Legislature; regulation promulgated under the authority of any  
48 statute or Executive Order of the Governor; Executive Order of the

1 Governor; Rules of Court; any federal law; federal regulation; or  
2 federal order. Prior to allowing access to any government record, the  
3 custodian thereof shall redact from that record any information which  
4 discloses the social security number, credit card number, **[unlisted]**  
5 <sup>2</sup>personal<sup>2</sup> telephone number, or driver license number of any person,  
6 or, in accordance with section 2 of P.L.2021, c.371 (C.47:1B-2), the  
7 home address, whether a primary or secondary residence, of any  
8 active, formerly active, or retired judicial officer, prosecutor, law  
9 enforcement officer, or child protective investigator in the Division of  
10 Child Protection and Permanency, or, as defined in section 1 of  
11 P.L.2021, c.371 (C.47:1B-1), any immediate family member thereof;  
12 except for use by any government agency, including any court or law  
13 enforcement agency, in carrying out its functions, or any private  
14 person or entity acting on behalf thereof, or any private person or  
15 entity seeking to enforce payment of court-ordered child support;  
16 except with respect to the disclosure of driver information by the New  
17 Jersey Motor Vehicle Commission as permitted by section 2 of  
18 P.L.1997, c.188 (C.39:2-3.4); and except that a social security number  
19 contained in a record required by law to be made, maintained or kept  
20 on file by a public agency shall be disclosed when access to the  
21 document or disclosure of that information is not otherwise prohibited  
22 by State or federal law, regulation or order or by State statute,  
23 resolution of either or both houses of the Legislature, Executive Order  
24 of the Governor, rule of court or regulation promulgated under the  
25 authority of any statute or executive order of the Governor. <sup>2</sup>**Prior to**  
26 **allowing access to any government record, the custodian shall redact**  
27 **from that record any information which discloses, or which might**  
28 **reasonably lead to disclosure of the telephone number, email address,**  
29 **or any medical, financial, or personal information of a member of the**  
30 **public when the disclosure thereof would violate the citizen's**  
31 **reasonable expectation of privacy or when the public agency has a**  
32 **reason to believe that disclosure of such personal information may**  
33 **result in harassment, unwanted solicitation, identity theft, or**  
34 **opportunities for other criminal acts.】<sup>2</sup> Except where an agency can  
35 demonstrate an emergent need, a regulation that limits access to  
36 government records shall not be retroactive in effect or applied to deny  
37 a request for access to a government record that is pending before the  
38 agency, the council or a court at the time of the adoption of the  
39 regulation.**

40 b. (1) A copy or copies of a government record may be purchased  
41 by any person upon payment of the fee prescribed by law or  
42 regulation.

43 Except as otherwise provided by law or regulation and except as  
44 provided in paragraph (2) of this subsection, the fee assessed for the  
45 duplication of a government record embodied in the form of printed  
46 matter shall be \$0.05 per letter size page or smaller, and \$0.07 per  
47 legal size page or larger. **[If a public agency can demonstrate that its**

1 actual costs for duplication of a government record exceed the  
2 foregoing rates, the public agency shall be permitted to charge the  
3 actual cost of duplicating the record. The actual cost of duplicating the  
4 record, upon which all copy fees are based, shall be the cost of  
5 materials and supplies used to make a copy of the record, but shall not  
6 include the cost of labor or other overhead expenses associated with  
7 making the copy except as provided for in subsection c. of this  
8 section.】 Access to electronic records and non-printed materials shall  
9 be provided free of charge, but the public agency may charge for the  
10 actual costs of any needed supplies such as computer discs. No fee  
11 shall be charged if the request is completed by directing the requestor  
12 to the requested government record that is available on the public  
13 agency's website or the website of another public agency.

14 (2) No fee shall be charged to a victim of a crime for a copy or  
15 copies of a record to which the crime victim is entitled to access, as  
16 provided in section 1 of P.L.1995, c.23 (C.47:1A-1.1).

17 c. Whenever the nature, format, manner of collation, or volume of  
18 a government record embodied in the form of printed matter to be  
19 inspected, examined, or copied pursuant to this section is such that the  
20 record cannot be reproduced by ordinary document copying equipment  
21 in ordinary business size or involves an extraordinary expenditure of  
22 time and effort to accommodate the request, the public agency may  
23 charge, in addition to the actual cost of duplicating the record, a  
24 special service charge that 【shall be reasonable and】 shall be based  
25 upon the actual direct cost of providing the copy or copies 【; provided,  
26 however, that in the case of a municipality, rates for the duplication of  
27 particular records when the actual cost of copying exceeds the  
28 foregoing rates shall be established in advance by ordinance】. and  
29 such special service charge shall be <sup>2</sup>【presumed to be】<sup>2</sup> reasonable.  
30 <sup>2</sup>The custodian shall provide the requestor with an explanation for and  
31 an itemized list of the fees or charges<sup>2</sup>.

32 The requestor shall have the opportunity to review and object to  
33 【the】 any fee or charge prior to it being incurred. <sup>2</sup>There shall be a  
34 rebuttable presumption that the fees or charges presented by the  
35 custodian are reasonable. If the requestor objects to the fees or  
36 charges, the burden of proof shall be on the requestor to demonstrate  
37 that the fees or charges are unreasonable.<sup>2</sup>

38 d. A custodian shall permit access to a government record and  
39 provide a copy thereof in the medium or format requested if the public  
40 agency maintains the record in that medium or format. If the public  
41 agency does not maintain the record in the medium or format  
42 requested, the custodian 【shall】 <sup>2</sup>【, at the custodian's discretion, may】  
43 shall<sup>2</sup> <sup>2</sup>【either】<sup>2</sup> convert the record to the medium or format requested  
44 <sup>2</sup>【or provide a copy in some other meaningful medium or format.】<sup>2</sup>  
45 【If a request is for a record: (1) in a medium not routinely used by the  
46 agency; (2) not routinely developed or maintained by an agency; or (3)  
47 requiring a substantial amount of manipulation or programming of

1 information technology, the agency may charge, in addition to the  
2 actual cost of duplication, a special charge that shall be reasonable and  
3 shall be based on the cost for any extensive use of information  
4 technology, or for the labor cost of personnel providing the service,  
5 that is actually incurred by the agency or attributable to the agency for  
6 the programming, clerical, and supervisory assistance required, or  
7 both.】 <sup>2</sup>, if the medium or format is available to the public agency and  
8 does not require a substantial amount of manipulation or programming  
9 of information technology, or the services of a third party vendor. If  
10 the public agency converts the record to the medium or format  
11 requested, the agency may charge, in addition to the actual cost of  
12 duplication, a special service fee that shall be reasonable and shall be  
13 based on the cost for any extensive use of information technology, or  
14 for the labor cost of personnel providing the service, that is actually  
15 incurred by the agency or attributable to the agency for the  
16 programming, clerical, and supervisory assistance required, or both.<sup>2</sup>  
17 If the public agency does not maintain the record in the electronic  
18 medium or format requested, <sup>2</sup>and the medium or format is not  
19 available to the public agency without a substantial amount of  
20 manipulation or programming of information technology,<sup>2</sup> the  
21 custodian shall be under no obligation to convert the record to the  
22 electronic medium or format requested but shall, at a minimum,  
23 provide a copy in the <sup>2</sup>electronic<sup>2</sup> format maintained by the public  
24 agency.

25 e. Immediate access ordinarily shall be granted to budgets, bills,  
26 vouchers, contracts, including collective negotiations agreements and  
27 individual employment contracts, and public employee salary and  
28 overtime information. Immediate access to government records shall  
29 not be required to be granted for documents over <sup>2</sup>[12] 24<sup>2</sup> months  
30 old.

31 Government records shall be made available to the public on a  
32 publicly available website to the extent feasible. A public agency may  
33 enter into shared services agreements for providing certain government  
34 records electronically.

35 If the government record <sup>2</sup>in a complete and unabridged form<sup>2</sup> is  
36 readily available on a public agency's website, the custodian may  
37 require the requestor to obtain the record from the website, which shall  
38 contain a search bar feature on its home page. The custodian shall  
39 provide the requestor with directions to assist in finding the record on  
40 the website, including providing the website URL address and the  
41 location on the website of the search bar, menu button, tab, link,  
42 landing page or equivalent, which contains the requested record.  
43 <sup>1</sup>【The request shall be deemed fulfilled upon notification by the  
44 custodian to the requestor of the availability and location on the  
45 website of the requested information.】 If the requestor does not  
46 respond to the custodian within seven <sup>2</sup>business<sup>2</sup> days of the custodian  
47 providing information about a record on the public agency's website,

1 the request shall be deemed fulfilled <sup>2</sup>unless the version of the  
2 government record on the public agency's website fails to contain non-  
3 protected information contained in the original record, in which case  
4 the custodian shall produce the original version of the record subject to  
5 any redactions required by law<sup>2</sup>. If, after the custodian has provided  
6 instructions on how to find a record on a public agency's website, the  
7 requestor is unable to find the record upon making a good faith effort  
8 to locate the record on the website, the requestor shall notify the  
9 custodian within seven <sup>2</sup>business<sup>2</sup> days of the custodian providing the  
10 information. Upon receiving such a request for assistance from a  
11 requestor, the custodian shall make a reasonable attempt to assist the  
12 requestor in finding the record on the website within seven <sup>2</sup>business<sup>2</sup>  
13 days of the requestor notifying the custodian.<sup>1</sup> <sup>2</sup>If the requestor is still  
14 unable to locate the record and requests a physical copy, the custodian  
15 shall provide the requestor with a physical copy of the record, for a fee  
16 not exceeding two times the cost of the production of the document.  
17 The custodian shall provide the requestor with the physical copy of the  
18 record within seven business days of the request for a physical copy.<sup>2</sup>

19 f. The custodian of a public agency shall adopt <sup>2</sup>[a] the<sup>2</sup> form  
20 <sup>2</sup>established by the Government Records Council pursuant to  
21 subsection b. of section 8 of P.L.2001, c.404 (C.47:1A-7),<sup>2</sup> for the use  
22 of any person who requests access to a government record held or  
23 controlled by the public agency. The form shall provide space for the  
24 name, address, email address and [phone] telephone number of the  
25 requestor and a brief description of the government record sought. A  
26 request shall be submitted by a requestor in the form adopted by the  
27 custodian and the custodian may deny a request that is <sup>2</sup>[not submitted  
28 in the form adopted by the custodian] incomplete, except that a  
29 requestor indicating the request is being submitted anonymously shall  
30 not be grounds for denial. A completed form adopted by the  
31 custodian, a letter, or an email from a requestor including all of the  
32 information required on the adopted form shall suffice in place of a  
33 completed form as a valid government record request. If the letter or  
34 email from a requestor includes substantially more information than  
35 required on the adopted form and requires more than reasonable effort  
36 to clarify the information, the custodian may deny the request. If a  
37 letter or an email from a requestor does not include all of the  
38 information required on the adopted form, the custodian may deny the  
39 record request<sup>2</sup>. A request may be submitted anonymously provided,  
40 however, that anonymous requestors shall not be permitted to institute  
41 proceedings pursuant to section 7 of P.L.2001, c.404 (C.47:1A-6). <sup>2</sup>A  
42 request that is submitted anonymously shall not be considered  
43 incomplete.<sup>2</sup>

44 The form also shall include space for a requestor to certify whether  
45 the government record will be used by that requestor or another person

1 for a commercial purpose, and the requestor shall be required to  
2 provide this information for the request to be fulfilled.

3 <sup>2</sup>[All requests by a data broker or a requestor who is making a  
4 request on behalf of and for the use of a data broker shall be denied.  
5 The form also shall include space for a requestor to certify that the  
6 requestor is not a data broker or is not making the request on behalf of  
7 or for the use of a data broker, and the requestor shall be required to  
8 provide this information for the request to be fulfilled.

9 Data obtained through a records request shall not be sold.]<sup>2</sup>

10 The form shall include space for the custodian to indicate which  
11 record will be made available, when the record will be available, and  
12 the fees to be charged. The form shall also include the following: (1)  
13 specific directions and procedures for requesting a record; (2) a  
14 statement as to whether prepayment of fees or a deposit is required; (3)  
15 the time period within which the public agency is required by  
16 P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented, to  
17 make the record available; (4) a statement of the requestor's right to  
18 challenge a decision by the public agency to deny access and the  
19 procedure for filing an appeal; (5) space for the custodian to list  
20 reasons if a request is denied in whole or in part; (6) space for the  
21 requestor to sign and date the form; (7) space for the custodian to sign  
22 and date the form if the request is fulfilled or denied. The custodian  
23 may require a deposit against costs for reproducing documents sought  
24 through **[an anonymous]** a request whenever the custodian anticipates  
25 that the information thus requested will cost in excess of \$5 to  
26 reproduce.

27 Custodians <sup>2</sup>who have adopted electronic government record  
28 request forms<sup>2</sup> shall provide directions on how to submit requests for  
29 government records, including any required forms, on the public  
30 agency's website.

31 Custodians shall be permitted to provide an electronic response to  
32 any electronic records request if government records are available  
33 electronically.

34 g. A request for access to a government record shall be in writing  
35 and hand-delivered, mailed, transmitted electronically, or otherwise  
36 conveyed to the appropriate custodian. A public agency may make  
37 available to the public on its website an online form, portal, or  
38 software for transmitting requests electronically. <sup>2</sup>The form  
39 established by the Government Records Council, pursuant to  
40 subsection b. of section 8 of P.L.2001, c.404 (C.47:1A-7), may be  
41 submitted electronically or by fax. Each submission of a government  
42 record request form or an email record request shall be made to the  
43 custodian of not more than one public agency. Submission of repeated  
44 requests to multiple custodians in the same public agency for the same  
45 record, while an identical or substantially similar request is pending in  
46 the agency, shall permit the custodian to deny the request.<sup>2</sup>

1 A custodian shall promptly comply with a request to inspect,  
2 examine, copy, or provide a copy of a government record. If the  
3 custodian is unable to comply with a request for access, the custodian  
4 shall indicate the specific basis therefor on the request form and  
5 promptly return it to the requestor. The custodian shall sign and date  
6 the form and provide the requestor with a copy thereof. If the  
7 custodian of a government record asserts that part of a particular  
8 record is exempt from public access pursuant to P.L.1963, c.73  
9 (C.47:1A-1 et seq.) as amended and supplemented, the custodian shall  
10 delete or excise from a copy of the record that portion which the  
11 custodian asserts is exempt from access and shall promptly permit  
12 access to the remainder of the record. **【If the government record**  
13 **requested is temporarily unavailable because it is in use or in storage,**  
14 **the custodian shall so advise the requestor and shall make**  
15 **arrangements to promptly make available a copy of the record.】** If a  
16 request for access to a government record would substantially disrupt  
17 agency operations, the custodian may deny access to the record after  
18 <sup>2</sup>informing the requestor of the potential disruption to agency  
19 operations and<sup>2</sup> attempting to reach a reasonable solution with the  
20 requestor that accommodates the interests of the requestor and the  
21 agency.

22 A party to a legal proceeding may not request a government record  
23 if the record sought is the subject of a court order <sup>2</sup>【in the legal  
24 proceeding or if compliance would otherwise be unreasonable,  
25 oppressive, or duplicative of already pending discovery request made  
26 in that legal proceeding】 including a pending discovery request<sup>2</sup> , and  
27 a custodian shall not be required to complete such a request. The  
28 requestor shall be required to certify whether the government record is  
29 being sought in connection with a legal proceeding and identify the  
30 proceeding for the request to be fulfilled. For purposes of this  
31 provision, a party to a legal proceeding shall include a party <sup>2</sup>【in  
32 interest】 subject to a court order<sup>2</sup> , any attorney representing that  
33 party, and any person acting as an agent for or on behalf of that party.  
34 <sup>2</sup>Nothing in this paragraph shall bar a request for a government record  
35 filed by a labor organization or by a contractor signatory to a collective  
36 bargaining agreement seeking information material to the enforcement  
37 of State or federal statutes or regulations regarding but not limited to  
38 wage and hour protections, workplace safety, or public procurement  
39 and public bidding, including, but not limited to, requests for certified  
40 payrolls or information about all bids submitted in response to a public  
41 procurement process subsequent to the deadline for the submission of  
42 all bids for that solicitation, when the request by the labor organization  
43 or contractor signatory is not sought in connection with or in  
44 furtherance of discovery requests in a court proceeding.<sup>2</sup>

45 A custodian shall not be required to complete a request including  
46 for, but not limited to, mail, email, text messages, correspondence, or  
47 social media postings and messages, if the request does not identify

1 <sup>2</sup>a<sup>2</sup> specific <sup>2</sup>[individuals or] job title or<sup>2</sup> accounts to be searched <sup>2</sup>, a  
2 specific subject matter,<sup>2</sup> and is not confined to a <sup>2</sup>[discrete and  
3 limited] reasonable<sup>2</sup> time period <sup>2</sup>[and a specific subject matter]<sup>2</sup> , or  
4 if the custodian determines that the request would require research and  
5 the collection of information from the contents of government records  
6 and the creation of new government records setting forth that research  
7 and information. <sup>2</sup>It shall be sufficient for a requestor to identify  
8 specific individuals by the individual's job title and position.<sup>2</sup>

9 h. Any officer or employee of a public agency who receives a  
10 request for access to a government record shall forward the request to  
11 the custodian of the record or direct the requestor to the custodian of  
12 the record. The request shall not be considered submitted until it is  
13 received by the custodian of records.

14 i. (1) Unless a shorter time period is otherwise provided by  
15 statute, regulation, or executive order, a custodian of a government  
16 record shall grant access to a government record or deny a request for  
17 access to a government record as soon as possible, but not later than  
18 seven business days after receiving the request, or 14 business days if  
19 the request is for a commercial purpose or if the records have to be  
20 reviewed by the public agency for the purpose of the agency's  
21 compliance with P.L.2021, c.371 (C.47:1B-1 et seq.), but the custodian  
22 shall notify the requestor of the additional response time within seven  
23 business days, provided that the record is currently available and not in  
24 storage or archived. The response time periods of seven or 14  
25 business days, as established in this subsection, shall be an additional  
26 seven business days longer if the public agency is a fire district which  
27 employs one or fewer full-time employees who serve as custodians.  
28 <sup>2</sup>If a commercial requestor would like to receive the record within  
29 seven business days, as established in this subsection, the custodian  
30 shall provide the requestor with a copy of the record and may charge a  
31 special service fee not exceeding two times the cost of the production  
32 of the record.<sup>2</sup>

33 In the event a records custodian is unable to fulfill a records  
34 request due to unforeseen circumstances or circumstances that  
35 otherwise reasonably necessitate additional time to fulfill the records  
36 request, the custodian shall be entitled to a reasonable extension of any  
37 response deadline and shall notify the requestor of the time extension  
38 within seven business days after receiving the request.

39 In the event a custodian fails to respond within seven business days  
40 or 14 business days, as appropriate, after receiving a request, the  
41 failure to respond shall be deemed a denial of the request, unless the  
42 requestor has elected not to accurately identify themselves or to  
43 provide [a name,] an accurate address, email address, or telephone  
44 number [, or other means of contacting the requestor]. If the  
45 requestor has elected not to accurately identify themselves or to  
46 provide [a name,] an accurate address, email address, or telephone  
47 number, [or other means of contacting the requestor,] the custodian

1 shall not be required to respond until the requestor **【reappears before】**  
2 contacts the custodian seeking a response to the original request.

3 If the government record is in storage or archived, the requestor  
4 shall be so advised within seven or 14 business days, as appropriate,  
5 after the custodian receives the request. The requestor shall be advised  
6 by the custodian when the record can be made available, which shall  
7 be no more than 21 business days from the date the requestor is so  
8 advised. If the record is not made available by that time, access shall  
9 be deemed denied.

10 A public agency shall not be considered to be in possession of a  
11 public record that is created <sup>2</sup>**【or】**, <sup>2</sup> maintained <sup>2</sup>, or received<sup>2</sup> by  
12 another public agency and made available to the public agency either  
13 by remote access to a computer network or by distribution as a  
14 courtesy copy <sup>2</sup>, unless the agency that created, maintained, or  
15 received the record resides within the judicial branch of the State  
16 Government<sup>2</sup>. A records custodian of a public agency that receives a  
17 request for <sup>2</sup>**【such】**<sup>2</sup> a record <sup>2</sup>created, maintained, or received by  
18 another public agency<sup>2</sup>, shall not be obligated to provide the record to  
19 the requestor <sup>2</sup>**【and】**. In the event the custodian does not provide the  
20 record, the custodian<sup>2</sup> shall direct the requestor within seven business  
21 days to the public agency that, to the best of their knowledge, created  
22 <sup>2</sup>**【or】**,<sup>2</sup> maintains <sup>2</sup>, or received<sup>2</sup> the requested record, at which time  
23 the request shall be considered completed.

24 The custodian shall not be required to complete an identical  
25 request for access to a government record from the same requestor if  
26 the information has not changed. <sup>2</sup>Nothing in this section shall prevent  
27 a requestor from filing periodic requests regarding regularly updated  
28 public records, including, but not limited to, certified payrolls, permits,  
29 and licensing applications.<sup>2</sup>

30 A requestor shall have 14 business days to retrieve the government  
31 records following notice from the custodian that the request has been  
32 completed and the records are available.

33 (2) During a period declared pursuant to the laws of this State as a  
34 state of emergency, public health emergency, or state of local disaster  
35 emergency, the deadlines by which to respond to a request for, or grant  
36 or deny access to, a government record under paragraph (1) of this  
37 subsection or subsection e. of this section shall not apply, provided,  
38 however, that the custodian of a government record shall make a  
39 reasonable effort, as the circumstances permit, to respond to a request  
40 for access to a government record within seven business days or 14  
41 business days, as appropriate, or as soon as possible thereafter.

42 j. A custodian shall **【post prominently in public view in the part**  
43 **or parts of the office or offices of the custodian that are open to or**  
44 **frequented by the public a statement that sets forth in clear, concise**  
45 **and specific terms the】** include information on the public agency's  
46 website and public records request form regarding a requestor's right  
47 to appeal a denial of, or failure to provide, access to a government

1 record **【**by any person for inspection, examination, or copying or for  
2 purchase of copies thereof**】** and the procedure by which an appeal may  
3 be filed, which shall include the website address and toll-free  
4 information line phone number of the Government Records Council.

5 k. The files maintained by the Office of the Public Defender that  
6 relate to the handling of any case shall be considered confidential and  
7 shall not be open to inspection by any person unless authorized by law,  
8 court order, or the State Public Defender.

9 (cf: P.L.2023, c.113, s.2)

10  
11 <sup>2</sup>**【**4.**】** <sup>2</sup>3. <sup>2</sup> Section 7 of P.L.2001, c.404 (C.47:1A-6) is amended to  
12 read as follows:

13 7. A person who is denied access to a government record by the  
14 custodian of the record, at the option of the requestor who is accurately  
15 identified by name, may, within 45 days of the date of denial:

16 institute a proceeding to challenge the custodian's decision by  
17 filing an action in Superior Court which shall be heard in the vicinage  
18 where it is filed by a Superior Court Judge who has been designated to  
19 hear such cases because of that judge's knowledge and expertise in  
20 matters relating to access to government records; or

21 in lieu of filing an action in Superior Court, file a complaint with  
22 the Government Records Council established pursuant to section 8 of  
23 P.L.2001, c.404 (C.47:1A-7).

24 The right to institute any proceeding under this section shall be  
25 solely that of the requestor. Any such proceeding shall proceed in a  
26 summary or expedited manner. The public agency shall have the  
27 burden of proving that the denial of access is authorized by law. If it is  
28 determined that access has been improperly denied, the court or  
29 **【**agency head**】** Government Records Council shall order that access be  
30 allowed. A requestor who prevails in any proceeding **【**shall**】** may be  
31 entitled to a reasonable attorney's fee. <sup>2</sup>**【**In determining whether to  
32 award attorney's fees, the court or the Government Records Council  
33 may consider whether the public agency is found to have knowingly  
34 and willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.), or to have  
35 unreasonably denied access.】 While the court or Government Records  
36 Council may award a reasonable attorney's fee to a prevailing party in  
37 any proceeding, if the public agency has been determined to have  
38 unreasonably denied access, acted in bad faith, or knowingly and  
39 willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.), then the court or  
40 Government Records Council shall award a reasonable attorney's fee.<sup>2</sup>

41 If the records sought are produced by the public agency within  
42 seven business days of service of an action in Superior Court or a  
43 complaint before the Government Records Council, <sup>1</sup>upon notification  
44 to the Superior Court or the Government Records Council, <sup>1</sup> the matter  
45 shall be dismissed without prejudice and the requestor may be entitled  
46 to a reasonable attorney's fee if the custodian knew or should have

1 known that the denial of access violated P.L.1963, c.73 (C.47:1A-1 et  
 2 seq.).

3 (cf: P.L.2001, c.404, s.7)

4

5 <sup>2</sup>~~5.~~ <sup>4.</sup> <sup>2</sup> Section 8 of P.L.2001, c.404 (C.47:1A-7) is amended to  
 6 read as follows:

7 8. a. (1) There is established in the Department of Community  
 8 Affairs a Government Records Council. The council shall consist of  
 9 the Commissioner of Community Affairs or the commissioner's  
 10 designee, ~~the Commissioner of Education or the commissioner's~~  
 11 ~~designee, and three public members appointed by the Governor, with~~  
 12 ~~the advice and consent of the Senate, not more than two of whom shall~~  
 13 ~~be of the same political party. The three public members shall serve~~  
 14 ~~during the term of the Governor making the appointment and until the~~  
 15 ~~appointment of a successor] who shall serve as Chair, and eight~~  
 16 ~~public members appointed as follows: four appointed by the Governor~~  
 17 ~~with the advice and consent of the Senate~~ <sup>2</sup>, ~~no more than two of~~  
 18 ~~whom shall be members of the same political party~~ <sup>2</sup>; ~~two directly~~  
 19 ~~appointed by the Governor from persons recommended by the~~  
 20 ~~President of the Senate~~ <sup>2</sup>, ~~no more than one of whom shall be a~~  
 21 ~~member of the same political party~~ <sup>2</sup>; ~~and two directly appointed by~~  
 22 ~~the Governor from persons recommended by the Speaker of the~~  
 23 ~~General Assembly~~ <sup>2</sup>, ~~no more than one of whom shall be a member of~~  
 24 ~~the same political party~~ <sup>2</sup>. Each public member shall serve for a term  
 25 ~~of five years and until a successor is appointed and qualified.~~

26 (2) ~~Notwithstanding~~ <sup>2</sup>~~any provision of subsection a. (1) of this~~  
 27 ~~section] the provisions of paragraph (1) of this subsection~~ <sup>2</sup>, ~~or any~~  
 28 ~~other law, rule, or regulation to the contrary, within 90 days following~~  
 29 ~~the enactment date of P.L. , c. (pending before the Legislature as~~  
 30 ~~this bill), the Governor shall directly appoint eight public members to~~  
 31 ~~the council, each of whom shall serve for a term of three years and~~  
 32 ~~until a successor is appointed and qualified, as follows: two from~~  
 33 ~~persons recommended by the President of the Senate,~~ <sup>2</sup>~~no more than~~  
 34 ~~one of whom shall be a member of the same political party;~~ <sup>2</sup> ~~two from~~  
 35 ~~persons recommended by the Speaker of the General Assembly,~~ <sup>2</sup>~~no~~  
 36 ~~more than one of whom shall be a member of the same political party;~~ <sup>2</sup>  
 37 ~~and four appointed at the sole discretion of the Governor~~ <sup>2</sup>, ~~no more~~  
 38 ~~than two of whom shall be members of the same political party~~ <sup>2</sup>. The  
 39 ~~terms of office of the members of the council serving on the date of~~  
 40 ~~enactment of P.L. , c. <sup>2</sup> <sup>2</sup> (pending before the Legislature as this~~  
 41 ~~bill), shall expire upon the Governor's direct appointment of the new~~  
 42 ~~members pursuant to this subsection.~~

43 (3) A public member shall not hold any other State or local elected  
 44 ~~or appointed] office or employment] while serving as a member of~~  
 45 ~~the council. A public member shall not receive a salary for service~~  
 46 ~~on the council but shall be reimbursed for reasonable and necessary~~

1 expenses associated with serving on the council and may receive such  
2 per diem payment as may be provided in the annual appropriations  
3 act.] receive a salary equivalent to that provided by law for a public  
4 member of the Local Finance Board of the Division of Local  
5 Government Services in the Department of Community Affairs. A  
6 member may be removed by the Governor for cause. Vacancies  
7 among the public members shall be filled [in the same manner in  
8 which the original appointment was made. The members of the  
9 council shall choose one of the public members to serve as the  
10 council's chair.] by appointment by the Governor, according to the  
11 provisions of subsection a. of this section, and for the remainder of the  
12 unexpired term. The council may employ an executive director and  
13 such professional and clerical staff as it deems necessary and may call  
14 upon the Department of Community Affairs for such assistance as it  
15 deems necessary and may be available to it.

16 b. The Government Records Council shall:

17 establish an informal mediation program to facilitate the resolution  
18 of disputes regarding access to government records;

19 receive, hear, review and adjudicate a complaint filed by any  
20 person concerning a denial of access to a government record by a  
21 records custodian;

22 issue advisory opinions, on its own initiative, as to whether a  
23 particular type of record is a government record which is accessible to  
24 the public;

25 prepare guidelines and an informational pamphlet for use by  
26 records custodians in complying with the law governing access to  
27 public records;

28 prepare an informational pamphlet explaining the public's right of  
29 access to government records and the methods for resolving disputes  
30 regarding access, which records custodians shall make available to  
31 persons requesting access to a government record;

32 prepare lists for use by records custodians of the types of records in  
33 the possession of public agencies which are government records;

34 make training opportunities available for records custodians and  
35 other public officers and employees which explain the law governing  
36 access to public records;

37 <sup>2</sup>promulgate rules and regulations to establish a uniform  
38 government record request form for all government record requests  
39 permitted for use by any public agency, that includes the required form  
40 components as set forth in subsection f. of section 6 of P.L.2001, c.404  
41 (C.47:1A-5). The form shall include certification that a party to a legal  
42 proceeding may not request a government record if the record sought  
43 is the subject of a court order or a pending discovery request. The  
44 council shall make the form available electronically and in print and  
45 shall make the form available to incarcerated individuals;<sup>2</sup> and

46 operate an informational website and a toll-free helpline staffed by  
47 knowledgeable employees of the council during regular business hours

1 which shall enable any person, including records custodians, to call for  
2 information regarding the law governing access to public records and  
3 allow any person to request mediation or to file a complaint with the  
4 council when access has been denied[;] .

5 In implementing the provisions of [subsections d. and e. of] this  
6 section, the council shall: act, to the maximum extent possible, at the  
7 convenience of the parties; utilize video conferencing,  
8 teleconferencing, faxing of documents, e-mail and similar forms of  
9 modern communication; conduct virtual meetings and hearings, when  
10 practical and at the discretion of the council; and when in-person  
11 meetings are necessary, send representatives to meet with the parties at  
12 a location convenient to the parties.

13 The council shall periodically review the information and format  
14 of its website and make such adjustments as shall be deemed necessary  
15 to ensure that the information is clearly presented, accessible, and  
16 useful for the general public. The council shall conduct such an initial  
17 review within six months following the effective date of P.L. , c.  
18 (pending before the Legislature as this bill).

19 c. At the request of the council, a public agency shall produce  
20 documents and ensure the attendance of witnesses with respect to the  
21 council's investigation of any complaint or the holding of any hearing.

22 d. Upon receipt of a written complaint signed by any person  
23 alleging that a custodian of a government record has improperly  
24 denied that person access to a government record, the council shall  
25 offer the parties the opportunity to resolve the dispute through  
26 mediation. Mediation shall enable a person who has been denied  
27 access to a government record and the public agency that employs the  
28 records custodian who denied or failed to provide access thereto to  
29 attempt to mediate the dispute through a process whereby a neutral  
30 mediator, who shall be trained in mediation selected by the council,  
31 acts to encourage and facilitate the resolution of the dispute.  
32 Mediation shall be an informal, nonadversarial process having the  
33 objective of helping the parties reach a mutually acceptable, voluntary  
34 agreement. The mediator shall assist the parties in identifying issues,  
35 foster joint problem solving, and explore settlement alternatives.

36 e. If any party declines mediation or if mediation fails to resolve  
37 the matter to the satisfaction of all parties, the council shall initiate an  
38 investigation concerning the facts and circumstances set forth in the  
39 complaint. The council shall make a determination as to whether the  
40 complaint is within its jurisdiction or frivolous or without any  
41 reasonable factual basis. The council may assign staff attorneys to  
42 conduct the investigation, present findings, and make  
43 recommendations to the council. If the council shall conclude that the  
44 complaint is outside its jurisdiction, frivolous, or without factual basis,  
45 it shall reduce that conclusion to writing and transmit a copy thereof to  
46 the complainant and to the public agency that employs the records  
47 custodian against whom the complaint was filed. Otherwise, the  
48 council shall notify the public agency that employs the records

1 custodian against whom the complaint was filed of the nature of the  
2 complaint and the facts and circumstances set forth therein.

3 The public agency that employs the records custodian shall have  
4 the opportunity to present the board with any statement or information  
5 concerning the complaint which the **【custodian】** agency wishes. If the  
6 council is able to make a determination as to a record's accessibility  
7 based upon the complaint and the **【custodian's】** agency's response  
8 thereto, it shall reduce that conclusion to writing and transmit a copy  
9 thereof to the complainant and to the public agency that employs the  
10 records custodian against whom the complaint was filed. If the  
11 council is unable to make a determination as to a record's accessibility  
12 based upon the complaint and the **【custodian's】** agency's response  
13 thereto, the council shall conduct a hearing on the matter in conformity  
14 with the rules and regulations provided for hearings by a State agency  
15 in contested cases under the "Administrative Procedure Act,"  
16 P.L.1968, c.410 (C.52:14B-1 et seq.), insofar as they may be  
17 applicable and practicable.

18 The council shall, by a majority vote of its members, render a  
19 decision as to whether the record which is the subject of the complaint  
20 is a government record which must be made available for public  
21 access pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and  
22 supplemented. If the council determines, by a majority vote of its  
23 members, that a custodian **【has】** is found to have knowingly and  
24 willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and  
25 supplemented, and **【is found】** to have unreasonably denied access  
26 under the totality of the circumstances, the council may impose the  
27 penalties provided for in section 12 of P.L.2001, c.404 (C.47:1A-11)  
28 on the public agency that employs the custodian.

29 A decision of the council may be appealed to the Appellate  
30 Division of the Superior Court. Such appeals shall be filed within  
31 <sup>2</sup>**【30】** 45<sup>2</sup> days from the date the council renders a decision. A  
32 decision of the council shall not have value as a precedent for any case  
33 initiated in Superior Court pursuant to section 7 of P.L.2001, c.404  
34 (C.47:1A-6). All proceedings of the council pursuant to this  
35 subsection shall be conducted as expeditiously as possible.

36 Beginning 18 months following the effective date of P.L. , c.  
37 (pending before the Legislature as this bill), the council shall  
38 adjudicate all complaints that come before it within 90 days of the  
39 complaint's filing, with the ability to extend for <sup>2</sup>**【30】** 45<sup>2</sup> days for  
40 good cause, exclusive of any time period during which the parties are  
41 engaged in a mediation process pursuant to this section. The council  
42 shall make such organizational adjustments and modify its procedures  
43 as it deems necessary to ensure that complaints are adjudicated in such  
44 a timeframe.

45 f. The council shall not charge any party a fee in regard to actions  
46 filed with the council. The council shall be subject to the provisions of  
47 the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6), except

1 that the council may go into closed session during that portion of any  
2 proceeding during which the contents of a contested record would be  
3 disclosed. **【A requestor who prevails in any proceeding shall be**  
4 **entitled to a reasonable attorney's fee.】** <sup>2</sup>A requestor who prevails in  
5 any proceeding may be entitled to a reasonable attorney's fee as  
6 provided for in section 6 of P.L.2001, c.404 (C.47:1A-6).<sup>2</sup>

7 g. The council shall not have jurisdiction over the Judicial or  
8 Legislative Branches of State Government or any agency, officer, or  
9 employee of those branches.

10 <sup>2</sup>h. The Superior Court shall provide the Government Records  
11 Council a list of all actions which have been brought before the courts  
12 filed pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known  
13 as the open public records act, which have been settled by the parties  
14 thereto. Such a list shall provide the docket number and names of the  
15 parties to the action. The council shall compile a database comprised  
16 of the data provided by the Superior Court.

17 The Administrative Office of the Courts, on behalf of the Superior  
18 Court of New Jersey, shall provide the Government Records Council a  
19 report at the end of each court year of all cases filed pursuant to  
20 P.L.1963, c.73 (C.47:1A-1 et seq.). The report shall be grouped by  
21 defendant and county filed in and shall include a comprehensive list of  
22 all cases filed with a summary judgment regarding P.L.1963, c.73  
23 (C.47:1A-1 et seq.), Statewide, itemized by the following factors:

- 24 (1) Case caption;
- 25 (2) County of venue;
- 26 (3) Docket number;
- 27 (4) Counsel of records;
- 28 (5) Case disposition; and
- 29 (6) Attorney's fees requested and awarded.<sup>2</sup>

30 (cf: P.L.2001, c.404, s.8)

31  
32 <sup>2</sup>**【6.】** <sup>5.</sup><sup>2</sup> Section 12 of P.L.2001, c.404 (C.47:1A-11) is  
33 amended to read as follows:

34 12. a. **【A】** If a public official, officer, employee, or custodian  
35 【who】 is found to have knowingly and willfully 【violates】 violated  
36 P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented,  
37 and 【is found】 to have unreasonably denied access under the  
38 totality of the circumstances, the public agency that employs the  
39 custodian, officer, employee, or official shall be subject to a civil  
40 penalty of \$1,000 for an initial violation, \$2,500 for a second  
41 violation that occurs within 10 years of an initial violation, and  
42 \$5,000 for a third violation that occurs within 10 years of an initial  
43 violation. 【This penalty】 The penalties authorized pursuant to this  
44 subsection may be imposed by the courts or by the Government  
45 Records Council.

46 b. A requestor <sup>2</sup>**【who is found to have sold the data obtained by**  
47 **a records request.】**<sup>2</sup> who is found to have intentionally failed to

1 certify that a records request is for a commercial purpose <sup>2</sup>], who is  
2 a data broker, or who is making the request on behalf of and for the  
3 use of a data broker, and is found to have intentionally certified that  
4 the requestor is not a data broker or is not making the request on  
5 behalf of and for the use of a data broker,]<sup>2</sup> shall be subject to a  
6 civil penalty of \$1,000 for the first offense, \$2,500 for the second  
7 offense, and \$5,000 for each subsequent offense. The penalties may  
8 be imposed by the courts.

9 c. These penalties shall be collected and enforced in  
10 proceedings in accordance with the "Penalty Enforcement Law of  
11 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court  
12 governing actions for the collection of civil penalties. The Superior  
13 Court shall have jurisdiction of proceedings for the collection and  
14 enforcement of the penalty imposed by this section.

15 d. Appropriate disciplinary proceedings may be initiated  
16 against a public official, officer, employee or custodian against  
17 whom a penalty has been imposed.

18 (cf: P.L.2001, c.404, s.12)

19  
20 <sup>2</sup>**[7.] 6.**<sup>2</sup> Section 2 of P.L.2021, c.371 (C.47:1B-2) is amended  
21 to read as follows:

22 2. a. An authorized person seeking the redaction or  
23 nondisclosure of the home address of any covered person from  
24 certain records and Internet postings consistent with section 2 of  
25 P.L.2015, c.226 (C.47:1-17), section 1 of P.L.1995, c.23 (C.47:1A-  
26 1.1), or section 6 of P.L.2001, c.404 (C.47:1A-5) shall submit a  
27 request in accordance with section 1 of P.L.2021, c.371 (C.47:1B-1)  
28 to the Office of Information Privacy through the secure portal  
29 established by the office. The address shall only be subject to  
30 redaction or nondisclosure if a request is submitted to and approved  
31 by the Director of the Office of Information Privacy.

32 b. (1) A public agency shall redact or cease to disclose, in  
33 accordance with section 6 of P.L.2001, c.404 (C.47:1A-5) and  
34 section 1 of P.L.1995, c.23 (C.47:1A-1.1), respectively, the home  
35 address of a covered person approved by the Office of Information  
36 Privacy not later than 30 days following the approval. A public  
37 agency shall also discontinue the redaction or nondisclosure of the  
38 home address of any covered person for whom a revocation request  
39 has been approved not later than 30 days following the approval.

40 (2) A custodian of a public agency who makes a reasonable  
41 effort to comply with this subsection shall be presumed to have  
42 acted without willful, purposeful, or reckless disregard of the law.

43 c. An immediate family member who has sought and received  
44 approval under subsection a. of this section and who no longer  
45 resides with the active, formerly active, or retired judicial officer,  
46 law enforcement officer, child protective investigator in the  
47 Division of Child Protection and Permanency, or prosecutor shall  
48 submit through the portal a revocation request not later than 30 days

1 from the date on which the immediate family member no longer  
2 resided with the judicial officer, law enforcement officer, child  
3 protective investigator in the Division of Child Protection and  
4 Permanency, or prosecutor.

5 d. A person submitting a request pursuant to subsection a. of  
6 this section shall affirm in writing that the person understands that  
7 certain rights, duties, and obligations are affected as a result of the  
8 request, including:

9 (1) the receipt of certain notices from non-governmental entities  
10 as would otherwise be required pursuant to the "Municipal Land  
11 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.);

12 (2) the signing of petitions related to the nomination or election  
13 of a candidate to public office or related to any public question;

14 (3) the eligibility or requirements related to seeking or accepting  
15 the nomination for election or election to public office, or the  
16 appointment to any public position;

17 (4) the sale or purchase of a home or other property, recordation  
18 of a judgment, lien or other encumbrance on real or other property,  
19 and any relief granted based thereon;

20 (5) the ability to be notified of any class action suit or  
21 settlement; and

22 (6) any other legal, promotional, or official notice which would  
23 otherwise be provided to the person but for the redaction or  
24 nondisclosure of such person's home address pursuant to subsection  
25 a. of this section.

26 (cf: P.L.2023, c.113, s.4)

27

28 <sup>2</sup>**[8.] 7.**<sup>2</sup> (New section) a. Notwithstanding any other law or  
29 rule or regulation to the contrary, whenever there is filed a verified  
30 complaint to the Superior Court of the county in which the request  
31 for access to government records was made under P.L.1963, c.73  
32 (C.47:1A-1 et seq.) alleging that a requestor has sought records  
33 <sup>2</sup>**[thereunder for the purpose to harass a public agency, or to]** with  
34 the intent to<sup>2</sup> substantially interrupt <sup>2</sup>the performance of<sup>2</sup>  
35 government function, the court may issue a protective order limiting  
36 the number and scope of requests the requestor may make or order  
37 such other relief as it deems appropriate, including referral of the  
38 matter to mediation <sup>2</sup>or a waiver of the required response time<sup>2</sup>.  
39 The court may issue the protective order if it finds <sup>2</sup>by clear and  
40 convincing evidence<sup>2</sup> that the requestor has sought records under  
41 P.L.1963, c.73 (C.47:1A-1 et seq.) <sup>2</sup>**[for the purpose of harassing**  
42 **the public agency, or to]** with the intent to<sup>2</sup> substantially interrupt  
43 <sup>2</sup>the performance of<sup>2</sup> government function <sup>2</sup>**[,** as the term harass is  
44 defined in N.J.S.2C:33-4<sup>2</sup>. The complaint shall be accompanied  
45 by a declaration of facts by the public agency withholding the  
46 records demonstrating that it has complied with P.L.1963, c.73

1 (C.47:1A-1 et seq.) and has made a good faith effort to reach an  
2 informal resolution of the issues relating to the records requests.

3 The requestor shall have notice and an opportunity to answer the  
4 allegations set forth in the petition submitted by the public agency.

5 The public agency shall have the burden of proof by clear and  
6 convincing evidence.

7 The court's consideration of a public agency's complaint for  
8 relief shall proceed in a summary or expedited manner.

9 b. The order specified in subsection a. of this section may limit,  
10 or, in appropriate circumstances, eliminate the public agency's duty  
11 to respond to government records requests from the requestor in the  
12 future.

13 <sup>2</sup>c. Requests for government records filed by a labor  
14 organization or by a contractor signatory to a collective bargaining  
15 agreement seeking information material to the enforcement of State  
16 or federal statutes or regulations regarding but not limited to wage  
17 and hour protections, workplace safety, or public procurement and  
18 public bidding, including but not limited to requests for certified  
19 payrolls or information about all bids submitted in response to a  
20 public procurement process subsequent to the deadline for the  
21 submission of all bids for that solicitation, when the request by the  
22 labor organization or contractor signatory is not sought in  
23 connection to or in furtherance of discovery requests in a court  
24 proceeding, shall not be considered to be intended to interrupt  
25 government functions, and shall not form the basis for the filing of  
26 a complaint under this section.<sup>2</sup>

27

28 <sup>2</sup>[9. (New section) a. A data broker business entity conducting  
29 business in this State shall register with the Division of Revenue  
30 and Enterprise Services in the Department of the Treasury. The  
31 division shall impose an annual fee of \$250 for each registration.  
32 The fee shall be deposited into the fund created pursuant to  
33 subsection c. of this section. For the purpose of this section, "data  
34 broker" shall have the same meaning as in section 1 of P.L.1995,  
35 c.23 (C.47:1A-1.1).

36 b. The Department of the Treasury may issue rules and  
37 regulations necessary to effectuate the purpose of this section. The  
38 rules and regulations shall be effective immediately upon filing  
39 with the Office of Administrative Law for a period not to exceed  
40 one year and may, thereafter, be amended, adopted, or readopted in  
41 accordance with the "Administrative Procedure Act," P.L.1968,  
42 c.410 (C.52:14B-1 et seq.).

43 c. There shall be created in the Department of the Treasury a  
44 dedicated, non-lapsing fund for providing grants to political  
45 subdivisions of the State for the purpose of providing access to  
46 government records electronically, including through the use of  
47 shared services agreements. The fund shall be administered by the

1 State Treasurer. Monies in the fund shall be appropriated annually  
2 solely for this purpose.】<sup>2</sup>

3

4 <sup>2</sup>【10. (New section) The Attorney General shall establish a  
5 Police Record Access Improvement Task Force to investigate the  
6 existing statutes governing public access to police records and  
7 develop recommendations for necessary changes to the law.

8 The members of the Police Record Access Improvement Task  
9 Force shall be comprised of 12 members. The membership of the  
10 task force shall be as follows:

11 The Attorney General, or the Attorney's General designee, who  
12 shall serve ex officio, as Chair;

13 Seven public members, appointed by the Governor, one who is a  
14 member of law enforcement, one who is a county or municipal  
15 prosecutor, one who is a criminal defense attorney or public  
16 defender, one who is a member of a social justice advocacy  
17 organization, one who is a member of the New Jersey Press  
18 Association, one who is a member of the New Jersey League of  
19 Municipalities, and one who is a member of the New Jersey  
20 Association of Counties;

21 Two public members, appointed by the Governor upon the  
22 recommendation of the President of the Senate; and

23 Two public members, appointed by the Governor upon the  
24 recommendation of the Speaker of the General Assembly.

25 The task force shall submit to the Governor and to the  
26 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
27 19.1), recommendations for changes to the law.

28 The Department of Law and Public Safety shall provide  
29 stenographic, clerical, and other administrative assistance and  
30 professional staff as the task force requires to carry out its work.  
31 The task force shall be entitled to call to its assistance and avail  
32 itself of the services of the employees of any State, county, or  
33 municipal department, board, bureau, commission, or agency as it  
34 may require and as may be available for its purposes.

35 The public members of the task force shall serve without  
36 compensation, but may be reimbursed for necessary and actual  
37 expenses incurred in the performance of their duties to the extent  
38 that funds are made available for that purpose.】<sup>2</sup>

39

40 <sup>2</sup>【11.】§.2 (New section) a. The provisions of this section shall  
41 apply only to the New Jersey Division of Elections, the New Jersey  
42 Election Law Enforcement Commission, County Boards of  
43 Elections, County Superintendents of Elections, County Clerks,  
44 Municipal Clerks, Fire District Board Clerks, School District  
45 Business Administrators, and School District Board Secretaries,  
46 hereafter referred to as an "election agency" or "election agencies."  
47 Except as otherwise provided for in this section, all provisions of  
48 this act, P.L. , c. (pending before the Legislature as this bill),

1 shall apply to all election agencies. Nothing herein shall be  
2 construed to mean that an election agency is required to provide a  
3 record in response to a request for records, unless it has made or  
4 received and maintains said requested record pursuant to law or  
5 regulation.

6 b. Notwithstanding any other law, rule, or regulation to the  
7 contrary, except as otherwise provided in sections 2 and 3 of  
8 P.L.2021, c.371 (C.47:1B-1 et seq.), subsection b. of section 1 of  
9 P.L.1994, c.148 (C.19:31-3.2), or in any rules or regulations  
10 promulgated by the Secretary of State pursuant to subsection f. of  
11 this section, the following shall be records for which the provided  
12 information shall not be redacted by an election agency except for  
13 voter signatures, Social Security numbers, driver license numbers,  
14 and non-driver identification numbers:

15 (1) Voter registration forms and forms changing the provided  
16 information thereof;

17 (2) Party affiliation forms and forms changing the provided  
18 information thereof;

19 (3) Applications for a vote-by-mail ballot, except as otherwise  
20 provided in sections 3 and 13 of P.L.2020, c.70 (C.19:63-1 et seq.);

21 (4) Forms or reports submitted to the Election Law Enforcement  
22 Commission;

23 (5) Nominating petitions for any candidate for any elected  
24 office, which shall be provided in a manner that includes voter  
25 signatures on such petitions;

26 (6) Petitions to recall an elected official, which shall be  
27 provided in a manner that includes voter signatures on such  
28 petitions;

29 (7) Petitions or submissions for any public question or referenda  
30 to be considered by voters, which shall be provided in a manner that  
31 includes voter signatures on such petitions;

32 (8) Any submissions, responses, objections, or challenges  
33 pertaining to a record referred to in this subsection; and

34 (9) Any addendums, amendments, corrections, withdrawals, or  
35 accompanying forms or submissions pertaining to a record referred  
36 to in this subsection.

37 c. Notwithstanding any other law, rule, or regulation to the  
38 contrary, the following shall be records and information that an  
39 election agency shall make available to requestors for immediate  
40 access and transmission via email as soon as possible, but not later  
41 than two business days after receipt of the request, provided the  
42 request is not for a commercial purpose, for which a fee shall not be  
43 charged nor collected:

44 (1) Nominating petitions for any candidate for any elected office  
45 filed with the election agency within the preceding 90 days of the  
46 date the request is received;

1 (2) Petitions to recall an elected official filed with the election  
2 agency within the preceding 90 days of the date the request is  
3 received;

4 (3) Petitions or submissions for any public question or referenda  
5 to be considered by voters filed with the election agency within the  
6 preceding 90 days of the date the request is received;

7 (4) Any submissions, responses, objections, or challenges filed  
8 with the election agency within the preceding 90 days pertaining to  
9 a record referred to in this subsection;

10 (5) Any addendums, amendments, corrections, withdrawals, or  
11 accompanying forms or submissions filed with the election agency  
12 within the preceding 90 days pertaining to a record referred to in  
13 this subsection; and

14 (6) The inspection and transmission deadline requirements of  
15 this subsection shall be deemed satisfied if an election agency posts  
16 on its website the records and information referred to in this  
17 subsection.

18 d. Notwithstanding any other law, rule, or regulation to the  
19 contrary, the following in paragraphs (1) through (4) of this  
20 subsection shall be records and information that an election agency  
21 shall make available to requestors for immediate access and  
22 transmission via email as soon as possible, provided the request  
23 pertains only to an election to be held within 16 days after the date  
24 of the request and is not for a commercial purpose. The  
25 transmission shall be not later than two business days after receipt  
26 of the request when said request is made between one and 15 days  
27 before the date of the election pertaining to the request. For any  
28 request submitted the day before an election by noon, the request  
29 shall be completed by noon the day of the election. A fee shall not  
30 be charged nor collected. This subsection shall apply to:

31 (1) Lists, in a format capable of being sorted by the requestor, of  
32 registered voters, including their name, address, party affiliation,  
33 and municipal voting ward and district, who have requested, been  
34 mailed, or returned a vote-by-mail ballot, including the dates the  
35 ballot was requested by the voter, mailed to the voter, and received  
36 by the appropriate election agency;

37 (2) Lists, in a format capable of being sorted by the requestor, of  
38 registered voters, including their name, address, party affiliation,  
39 and municipal voting ward and district, who have cast a vote during  
40 the early voting period, including the date and polling location the  
41 vote was cast;

42 (3) The inspection and transmission deadline requirements of  
43 this subsection shall be deemed satisfied if an election agency posts  
44 on its website the records and information referred to in this  
45 subsection; and

46 (4) Whenever the requirements of this subsection would cause a  
47 voter's privacy to be violated, the information shall be provided in a  
48 manner that maintains the privacy of the voter.

1 e. The following records or information shall not be subject to  
2 disclosure pursuant to a request for public records:

3 (1) Ballots marked by a voter, vote tabulations, or election  
4 results for any election prior to the time of the closing of the polls  
5 on the date of the election, except as otherwise provided for by law,  
6 rule, or regulation; and

7 (2) Manuals instructions, specifications, technical information,  
8 or programming code of computers, software, applications,  
9 networks, tablets, voting machines, printers, scanners, and any other  
10 equipment, systems, policies or plans used for the conduct of  
11 elections, the disclosure of which, could have the potential to  
12 jeopardize the security, integrity or accuracy of the conduct of  
13 elections, tabulation of votes, or determination of election results,  
14 except as otherwise provided for by law, rule, or regulation, or in  
15 response to a subpoena or order of a court or tribunal of competent  
16 jurisdiction.

17 f. The Secretary of State may adopt regulations necessary to  
18 effectuate the purposes of this act, which regulations shall be  
19 effective immediately upon filing with the Office of Administrative  
20 Law for a period not to exceed 18 months, and may, thereafter, be  
21 amended, adopted or readopted in accordance with the provisions of  
22 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
23 seq.).  
24

25 <sup>2</sup>**[12.]** 9.<sup>2</sup> (New section) a. <sup>2</sup>**[**The provisions of section 1 of  
26 P.L.1963, c.73 (C.47:1A-1), section 1 of P.L.1995, c.23 (C.47:1A-  
27 1.1), sections 6, 7, and 8 of P.L.2001, c.404 (C.47:1A-5 through  
28 47:1A-7), and section 2 of P.L.2021, c.371 (C.47:1B-2), as  
29 amended by sections 1 through 5 and section 7 of P.L. , c.  
30 (pending before the Legislature as this bill), shall apply  
31 retroactively to all complaints and appeals pending before the  
32 Government Records Council, the Superior Court or the Supreme  
33 Court of New Jersey filed prior to the effective date of P.L. , c.  
34 (pending before the Legislature as this bill), provided, however, that  
35 nothing in this section shall be construed as to retroactively reduce  
36 the statute of limitations governing any complaint or appeal pending  
37 before the Government Records Council, the Superior Court or the  
38 Supreme Court of New Jersey.

39 b.<sup>2</sup> All complaints and appeals pending before the Government  
40 Records Council or the Superior Court filed prior to the effective  
41 date of P.L. , c. (pending before the Legislature as this bill),  
42 either anonymously or using a fictitious name or identity, may be  
43 dismissed with prejudice upon a motion by the public agency,  
44 unless the complainant files an amendment to their complaint that  
45 accurately identifies their name and mailing address within 90 days  
46 of the effective date of P.L. , c. (pending before the Legislature  
47 as this bill).

1       <sup>2</sup>[c.] b.<sup>2</sup> The parties to any complaint or appeal pending before  
2 the Government Records Council, the Superior Court or the  
3 Supreme Court of New Jersey filed prior to the effective date of  
4 P.L.     , c.    (pending before the Legislature as this bill), shall be  
5 permitted to file an amendment to their respective complaints and  
6 answers within 90 days of the effective date of P.L.     , c.    (pending  
7 before the Legislature as this bill).

8  
9       <sup>2</sup>10. (New section) a. A person who has obtained a photograph  
10 or video recording pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.),  
11 and who is not a subject of the photograph or video footage, shall  
12 not disclose any indecent or graphic images of the subject's  
13 intimate parts, captured by the photograph or recording, without the  
14 prior written consent of the subject of the photograph or video  
15 footage or written consent of the legal next of kin if the subject is  
16 deceased.

17       b. A person who knowingly violates the provisions of  
18 subsection a. of this section shall be guilty of a disorderly persons  
19 offense.

20       c. As used in this section:

21       "Disclose" means to sell, manufacture, give, provide, lend, mail,  
22 deliver, transfer, publish, post, distribute, circulate, disseminate,  
23 present, exhibit, advertise, offer, share, or make available through  
24 the Internet or by any other means, whether or not for pecuniary  
25 gain.

26       "Indecent or graphic" means images depicting exposed intimate  
27 parts in a manner that would be clearly visible to a reasonable  
28 person.

29       "Intimate parts" means the following body parts: sexual organs,  
30 genital area, anal area, inner thigh, groin, buttock, or breast of a  
31 person.

32       "Subject of the photograph or video footage" means a person  
33 who appears in the photograph or video recording.<sup>2</sup>

34  
35       <sup>2</sup>[13.] 11.<sup>2</sup> a. There is hereby appropriated \$4,000,000 from the  
36 State General Fund to the Department of Community Affairs to  
37 provide grants to political subdivisions of the State for the purpose  
38 of making government records that are accessible under P.L.1963,  
39 c.73 (C.47:1A-1 et seq.) available electronically, including through  
40 the use of shared services agreements.

41       b. There is hereby appropriated \$4,000,000 from the State  
42 General Fund to the Department of Community Affairs for the  
43 Government Records Council.

44       <sup>2</sup>c. There is hereby appropriated \$2,000,000 from the State  
45 General Fund to the Department of Community Affairs for the  
46 Government Records Council to effectuate the purposes of section 8

1 of P.L.2001, c.404 (C.47:1A-7) as amended by section 5 of P.L. .  
2 c. (pending before the Legislature as this bill).<sup>2</sup>

3  
4 <sup>2</sup>[14.] 12.<sup>2</sup> This act shall take effect <sup>2</sup>[30] 90<sup>2</sup> days following  
5 the date of enactment <sup>2</sup>[, except as otherwise provided for in this  
6 act, and except that section 9 and section 11 shall take effect eight  
7 months following the date of enactment. The Attorney General,  
8 Department of Community Affairs, the Government Records  
9 Council, the Department of the Treasury, and the Department of  
10 State may take any anticipatory administrative action in advance as  
11 shall be necessary for the implementation of this act.]<sup>2</sup>

ASSEMBLY STATE AND LOCAL GOVERNMENT  
COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 4045**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MARCH 11, 2024

The Assembly State and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 4045.

As amended by the committee, this bill makes various changes to the law governing access to government records, commonly known as the open public records act, including the following:

modifies the conditions under which a records custodian has to respond to a request for records, allowing the custodian discretion to deny duplicative or anonymous requests;

encourages and allocates funds to assist public agencies in moving documents online, making these records searchable via an online database, to the extent feasible;

creates a uniform and comprehensive definition of “personal identifying information” which, in many cases, is redacted by the records custodian;

establishes specific timelines for responses to records requests occurring under various circumstances, such as when a record may be unavailable or in storage, and adds additional specificity and clarity to the items and information which are exempt from public access;

prohibits records requests made by or for data brokers, who take the information they gather and use it for a commercial purpose;

transfers the responsibility for violations from the custodian to the public agency, and allows, in limited circumstances, for the courts to issue a protective order to shield the agency from harassment;

alters the composition of the Government Records Council, adding more public members, establishing staggered five year terms, and annual salaries; and

establishes a Police Record Access Improvement Task Force to investigate the existing statutes governing public access to police records and develop recommendations for necessary changes to the law.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

require records custodians to assist requestors who are unable to find the record on the public website after the custodian has provided the initially required directions. The requestor has seven days after the custodian provides the initial directions to request further assistance. After the request is received by the custodian, the custodian has seven days to provide the requested assistance; and

require notification to the Superior Court or the Government Records Council of the timely production of records in order for the matter to be dismissed without prejudice and to entitle a requestor to a reasonable attorney's fee.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 4045

with committee amendments

# STATE OF NEW JERSEY

DATED: MAY 10, 2024

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 4045 (1R).

As amended by the committee, this bill makes various changes to the law governing access to government records, commonly known as the open public records act, including the following:

- modifies the conditions under which a records custodian has to respond to a request for records, allowing the custodian discretion to deny duplicative requests;

- encourages and allocates funds to assist public agencies in moving documents online, making these records searchable via an online database, to the extent feasible;

- creates a comprehensive definition of “personal identifying information” which, in many cases, is redacted by the records custodian;

- establishes specific timelines for responses to records requests occurring under various circumstances, such as when a record may be unavailable or in storage, and adds additional specificity and clarity to the items and information which are exempt from public access;

- transfers the responsibility for violations from the custodian to the public agency, and allows, in limited circumstances, for the courts to issue a protective order to shield the agency from harassment;

- alters the composition of the Government Records Council, adding more public members, establishing staggered five year terms and annual salaries, and ensuring partisan balance;

- adds labor organizations, contractor signatories, and nonprofit organizations to the list of parties exempt from “commercial purpose”;

  - defines “labor organization”;

- removes record request limitations and registration fees on data brokers;

- removes the following from exemption from public record requests: notes, draft material, deliberative material, information

related to negotiating positions, logs of telephone calls, logs of texts, logs of emails, and electronic or paper calendars for individuals;

specifies legal next of kin, legal representatives, attending physicians, when permitted by a court, and courts may have access to visual autopsy records;

specifies that releasing security footage is permitted as long as it does not compromise the integrity of the security system;

prohibits indecent or graphic images of a person's intimate parts from release by a record request;

requires the custodian to provide a requestor with an itemized list of charges and permit the requestor to challenge the charges;

determines charges are reasonable and places burden of proof upon requestor to determine that charges are not reasonable;

allows public agency to charge certain fees or not complete a request if the medium of the record requested is unavailable;

specifies that a request submitted anonymously will not be considered incomplete;

requires the Government Records Council to create a uniform record request form that will be adopted by all public agencies;

allows a commercial requestor to pay a special service fee to receive a record in seven business days instead of 14 business days;

specifies that the court or Government Records Council may award a reasonable attorney's fee to any requestor who prevails in any proceeding, but determines that a requestor will always receive a reasonable attorney's fee if the public agency has been determined to have denied the record unreasonably, acted in bad faith, or knowingly and willfully violated the open public records act;

requires the Superior Court and the Administrative Office of the Courts to report certain data on actions brought before the court regarding record requests;

removes the Police Record Access Improvement Task Force; and

appropriates an additional \$2,000,000 for the Government Records Council to effectuate the purposes of the bill.

Nothing in this bill is intended to modify Daniel's Law restrictions on the disclosure or re-disclosure of covered person's home address, including street address or other home address identifiers, or unpublished home phone number information following a request for removal.

As amended and reported by the committee, Assembly Bill No. 4045 (1R) is identical to Senate Bill No. 2930 (2R).

#### COMMITTEE AMENDMENTS:

The committee amended the bill to:

add labor organizations, contractor signatories, and nonprofit organizations to the list of parties exempt from "commercial purpose";

define "labor organization;"

remove record request limitations and registration fees on data brokers;

remove the following from exemption from public record requests: notes, draft material, deliberative material, information related to negotiating positions, logs of telephone calls, logs of texts, logs of emails, and electronic or paper calendars for individuals;

specify legal next of kin, legal representatives, attending physicians, when permitted by a court, and courts may have access to visual autopsy records;

specify that releasing security footage is permitted as long as it does not compromise the integrity of the security system;

prohibit indecent or graphic images of a person's intimate parts from release by a record request;

require the custodian to provide a requestor with an itemized list of charges and permit the requestor to challenge the charges;

determine charges are reasonable and places burden of proof upon requestor to determine that charges are not reasonable;

allow public agency to charge certain fees or not complete a request if the medium of the record requested is unavailable;

specify that a request submitted anonymously will not be considered incomplete;

require the Government Records Council to create a uniform record request form that will be adopted by all public agencies;

allow a commercial requestor to pay a special service fee to receive a record in seven business days instead of 14 business days;

specify that the court or Government Records Council may award a reasonable attorney's fee to any requestor who prevails in any proceeding, but determines that a requestor will always receive a reasonable attorney's fee if the public agency has been determined to have denied the record unreasonably, acted in bad faith, or knowingly and willfully violated the open public records act;

require the Superior Court and the Administrative Office of the Courts to report certain data on actions brought before the court regarding record requests;

remove Police Record Access Improvement Task Force; and

appropriate an additional \$2,000,000 for the Government Records Council to effectuate the purposes of the bill.

Nothing in this bill is intended to modify Daniel's Law restrictions on the disclosure or re-disclosure of covered person's home address, including street address or other home address identifiers, or unpublished home phone number information following a request for removal.

**FISCAL IMPACT:**

The Office of Legislative Services (OLS) concludes that this bill will result in an indeterminate net impact on the finances of State and local public agencies.

The OLS determines that the bill may result in a State cost increase of up to \$10 million in the first year the bill is in effect. If the full \$10 million is not expended in the first year, the residual amount will be spent in subsequent fiscal years until the full \$10 million is exhausted.

The bill appropriates \$4 million for the Department of Community Affairs to provide grants to political subdivisions of the State to make government records available to the public electronically, including through shared services agreements. The State expenditure increase would lead to a concurrent revenue increase for counties, municipalities, and school districts that receive grants under the program.

The bill also appropriates \$6 million to the Department of Community Affairs for the establishment and operations of the Government Records Council.

Beyond the appropriated amount, the OLS is unable to estimate the direction and magnitude of the bill's net impact on State and local finances. This is so because of the countervailing effects of the bill, some examples of which include:

- 1) Annual expenditure and revenue decreases for public agencies from an overall reduction in the number of requests to which an agency must respond and the number of records which must be produced.
- 2) Potential annual expenditure increases for public agencies to make any adjustments and modifications necessary to meet accelerated records request fulfillment and complaint adjudication timelines.
- 3) Annual State expenditure increase for a new salary of \$12,000 for each of the eight public members of the Government Records Council, pursuant to the bill.
- 4) Annual expenditure decrease for public agencies resulting from the bill's provision that removes the mandatory awarding of attorney's fees to a requestor who prevails in any complaint proceeding against a public agency.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## ASSEMBLY, No. 4045

### STATE OF NEW JERSEY 221st LEGISLATURE

DATED: MARCH 18, 2024

#### SUMMARY

- Synopsis:** Makes various changes to process for access to government records; appropriates \$8 million.
- Type of Impact:** Annual State and local cost and revenue impacts.
- Agencies Affected:** Department of Community Affairs; State, local government, and school district agencies.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Annually Thereafter</u></b>
<b>State Cost Impact</b>	Increase of up to \$8 million	Indeterminate
<b>State Revenue Impact</b>	Indeterminate	Indeterminate
<b>Local Cost Impact</b>	Indeterminate	Indeterminate
<b>Local Revenue Impact</b>	Increase of up to \$4 million	Indeterminate

- The Office of Legislative Services (OLS) concludes that this bill will result in an indeterminate net impact on the finances of State and local public agencies.
- The OLS determines that the bill may result in a State cost increase of up to \$8 million in the first year the bill is in effect. If the full \$8 million is not expended in the first year, the residual amount will be spent in subsequent fiscal years until the full \$8 million is exhausted.
- The bill appropriates \$4 million for the Department of Community Affairs to provide grants to political subdivisions of the State to make government records available to the public electronically, including through shared services agreements. The State expenditure increase would lead to a concurrent revenue increase for counties, municipalities, and school districts that receive grants under the program.
- The bill also appropriates \$4 million to the Department of Community Affairs for the operations of the Government Records Council.

- Beyond the appropriated amount, the OLS is unable to estimate the direction and magnitude of the bill's net impact on State and local finances. This is so because of the countervailing effects of the bill, some examples of which include:
  - 1) Annual expenditure and revenue decreases for public agencies from an overall reduction in the number of requests to which an agency must respond and the number of records which must be produced.
  - 2) Potential annual expenditure increases for public agencies to make any adjustments and modifications necessary to meet accelerated records request fulfillment and complaint adjudication timelines.
  - 3) Annual State expenditure increase for a new salary of \$12,000 for each of the eight public members of the Government Records Council, pursuant to the bill.
  - 4) Annual expenditure decrease for public agencies resulting from the bill's provision that removes the mandatory awarding of attorney's fees to a requestor who prevails in any complaint proceeding against a public agency.
  - 5) Annual State revenue increases from the bill's establishment of registration fees for data brokers, and penalties for improper records requests made by data brokers.

## **BILL DESCRIPTION**

This bill makes various changes to the law governing access to government records, commonly known as the Open Public Records Act. The bill appropriates funds to assist local public agencies in moving public records online, where members of the public can search for such documents.

The bill also restricts the ability of certain records requestors, such as those who make requests anonymously or data brokers who request documents in order to profit from the data therein, to request public records. Under the bill, records custodians are directed to withhold or redact records which include personal identifying information, or information which the custodian has reason to believe would result in harassment or the conduct of another crime.

This bill revises the structure and membership of the Government Records Council and provides a salary to each of its members.

The bill also modifies or eliminates several fees which may be charged by the custodian for certain records requests, makes the award of attorney's fees in a dispute over access to a government record discretionary, rather than mandatory, and shifts responsibility for fines and penalties awarded as the result of an improper denial of a request for a public record from the custodian to the public agency that employs the custodian.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

***OFFICE OF LEGISLATIVE SERVICES***

The OLS concludes that this bill will result in an indeterminate net impact on the finances of State and local public agencies.

The OLS determines that the bill may result in a State cost increase of up to \$8 million in the first year the bill is in effect. If the full \$8 million is not expended in the first year, the residual amount will be spent in subsequent fiscal years until the full \$8 million is exhausted.

The bill appropriates \$4 million for the Department of Community Affairs to provide grants to political subdivisions of the State to make government records available to the public electronically, including through shared services agreements. The State expenditure increase would lead to a concurrent revenue increase for counties, municipalities, and school districts that receive grants under the program.

The bill also appropriates \$4 million to the Department of Community Affairs for the operations of the Government Records Council.

Beyond the appropriated amount, the OLS is unable to estimate the direction and magnitude of the bill's net impact on State and local finances. This is so because of the countervailing effects of the bill, some of which are summarized in the following paragraphs.

The bill would result in annual expenditure and revenue decreases for public agencies from an overall reduction in the number of requests to which an agency must respond and the number of records which must be produced. For example, the bill prohibits requests by data brokers and permits requests for government records to be fulfilled by providing the requestor with the online location of the records requested, which would reduce agency costs. However, reducing the overall volume of records requests and removing the option for a public agency to charge the actual cost of duplicating a record would also reduce agency revenues.

The bill may also result in potential annual expenditure increases for certain public agencies to make any adjustments and modifications necessary to meet accelerated records request fulfillment and complaint adjudication timelines. Under the bill, the Government Records Council would be required to adjudicate all complaints that come before it within 90 days of the complaint's filing, with the possibility of extending the deadline by 30 days in certain circumstances. Also, the bill would require State and local election agencies to make records and information specified in the bill available within two business days of receiving the request.

Pursuant to the bill, there would be an annual State expenditure increase for a new salary of \$12,000 for each of the eight public members of the Government Records Council. The OLS estimates these new salaries and related employment benefits would increase State costs by \$107,000 annually.

There would also be an annual State expenditure decrease for public agencies resulting from the bill's provision that removes the mandatory awarding of attorney's fees to a requestor who prevails in any complaint proceeding against a public agency. The bill makes the award of attorney's fees in a dispute over access to a government record discretionary, rather than mandatory.

Additionally, the bill would increase State revenues by establishing annual registration fees for data brokers, as well as penalties for improper records requests made by data brokers or those making requests on behalf of and for the use of a data broker.

Finally, the OLS notes the overall expenditure and revenue impacts for any one public agency will depend on the change in the number of government records requests and the change in the number of complaints filed by requestors. The OLS does not have specific data regarding the government records requests handled by public agencies in the State.

*Section: State Government*

*Analyst: Ryan Brinkerhoff  
Deputy Counsel*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

## ASSEMBLY, No. 4045

### STATE OF NEW JERSEY 221st LEGISLATURE

DATED: MAY 16, 2024

#### SUMMARY

- Synopsis:** Makes various changes to process for access to government records; appropriates \$10 million.
- Type of Impact:** Annual State and local cost and revenue impacts.
- Agencies Affected:** Department of Community Affairs; State, local government, and school district agencies.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Annually Thereafter</u></b>
<b>State Cost Impact</b>	Increase of up to \$10 million	Indeterminate
<b>State Revenue Impact</b>	Indeterminate	Indeterminate
<b>Local Cost Impact</b>	Indeterminate	Indeterminate
<b>Local Revenue Impact</b>	Increase of up to \$4 million	Indeterminate

- The Office of Legislative Services (OLS) concludes that this bill will result in an indeterminate net impact on the finances of State and local public agencies.
- The OLS determines that the bill may result in a State cost increase of up to \$10 million in the first year the bill is in effect. If the full \$10 million is not expended in the first year, the residual amount will be spent in subsequent fiscal years until the full \$10 million is exhausted.
- The bill appropriates \$4 million for the Department of Community Affairs to provide grants to political subdivisions of the State to make government records available to the public electronically, including through shared services agreements. The State expenditure increase would lead to a concurrent revenue increase for counties, municipalities, and school districts that receive grants under the program.
- The bill also appropriates \$4 million to the Department of Community Affairs for the operations of the Government Records Council, and an additional \$2 million for the Government Records Council to implement certain provisions of the bill.

- Beyond the appropriated amount, the OLS is unable to estimate the direction and magnitude of the bill's net impact on State and local finances. This is so because of the countervailing effects of the bill, some examples of which include:
  - 1) Annual expenditure and revenue decreases for public agencies from an overall reduction in the number of requests to which an agency must respond and the number of records which must be produced.
  - 2) Potential annual expenditure increases for public agencies to make any adjustments and modifications necessary to meet accelerated records request fulfillment and complaint adjudication timelines.
  - 3) Annual State expenditure increase for a new salary of \$12,000 for each of the eight public members of the Government Records Council, pursuant to the bill.
  - 4) Annual expenditure decrease for public agencies resulting from the bill's provision that removes the mandatory awarding of attorney's fees to a requestor who prevails in any complaint proceeding against a public agency.

## **BILL DESCRIPTION**

This bill makes various changes to the law governing access to government records, commonly known as the open public records act. The bill appropriates funds to assist local public agencies in moving public records online, where members of the public can search for such documents.

Under the bill, records custodians are directed to withhold or redact records which include personal identifying information, information which the custodian has reason to believe would result in identity theft, and indecent or graphic images or video footage without prior written consent from the subject of the images or video footage.

The bill makes it a disorderly persons offense to make public indecent or graphic images or video footage obtained through a public record request, without the prior written consent of the subject of the image or video footage.

This bill revises the structure and membership of the Government Records Council and provides a salary to each of its members.

The bill also modifies several fees which may be charged by the custodian for certain records requests; makes the award of attorney's fees in a dispute over access to a government record discretionary unless the public agency is found to have unreasonably denied access, acted in bad faith, or knowingly and willfully violated the law; and shifts responsibility for fines and penalties awarded as the result of an improper denial of a request for a public record from the custodian to the public agency that employs the custodian.

The bill creates an extended timeline for records custodians to respond to requests from "commercial requestors" who intend to use the record to generate a profit. The bill authorizes a custodian to charge a special service fee to a commercial requestor who would like to receive the record in seven business days instead of 14 business days.

This bill requires the Administrative Office of the Courts, on behalf of the Superior Court, to provide the Government Records Council with a report of all cases related to the open public records act at the end of each court year.

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

None received.

### *OFFICE OF LEGISLATIVE SERVICES*

The OLS concludes that this bill will result in an indeterminate net impact on the finances of State and local public agencies.

The OLS determines that the bill may result in a State cost increase of up to \$10 million in the first year the bill is in effect. If the full \$10 million is not expended in the first year, the residual amount will be spent in subsequent fiscal years until the full \$10 million is exhausted.

The bill appropriates \$4 million for the Department of Community Affairs to provide grants to political subdivisions of the State to make government records available to the public electronically, including through shared services agreements. The State expenditure increase would lead to a concurrent revenue increase for counties, municipalities, and school districts that receive grants under the program.

The bill also appropriates \$4 million to the Department of Community Affairs for the operations of the Government Records Council, and an additional \$2 million for the Government Records Council to implement certain provisions of the bill.

Beyond the appropriated amount, the OLS is unable to estimate the direction and magnitude of the bill's net impact on State and local finances. This is so because of the countervailing effects of the bill, some of which are summarized in the following paragraphs.

The bill would result in annual expenditure and revenue decreases for public agencies from an overall reduction in the number of requests to which an agency must respond and the number of records which must be produced. For example, the bill permits requests for government records to be fulfilled by providing the requestor with the online location of the records requested, which would reduce agency costs. However, reducing the overall volume of records requests and removing the option for a public agency to charge the actual cost of duplicating a record would also reduce agency revenues.

The bill may also result in potential annual expenditure increases for certain public agencies to make any adjustments and modifications necessary to meet accelerated records request fulfillment and complaint adjudication timelines. Under the bill, the Government Records Council would be required to adjudicate all complaints that come before it within 90 days of the complaint's filing, with the possibility of extending the deadline by 45 days in certain circumstances. Also, the bill would require State and local election agencies to make records and information specified in the bill available within two business days of receiving the request.

Pursuant to the bill, there would be an annual State expenditure increase for a new salary of \$12,000 for each of the eight public members of the Government Records Council. The OLS estimates these new salaries and related employment benefits would increase State costs by \$107,000 annually.

The bill would increase State expenditures by shifting the responsibility for civil penalties awarded for the improper denial of a record request from the custodian to the public agency that employs the custodian.

There may also be an annual State expenditure decrease for public agencies resulting from the bill's provision that removes the mandatory awarding of attorney's fees to a requestor who prevails in any complaint proceeding against a public agency. The bill makes the award of attorney's fees

in a dispute over access to a government record discretionary, unless the public agency is found to have unreasonably denied access, acted in bad faith, or knowingly and willfully violated the law.

Additionally, the bill would increase State revenues by establishing fines for requestors who intentionally fail to certify that they have made a public record request for a commercial purpose.

The bill would also increase State expenditures by requiring the Administrative Office of the Courts to compile and provide the Government Records Council with a report detailing every case filed with the Superior Court related to the open public records act, at the end of each court year.

The bill may also increase State and local expenditures by making it a disorderly persons offense to make public indecent or graphic images or video footage obtained through a public record request, without the prior written consent of the subject of the image or video footage. Implementation of this provision would require increased monitoring and investigation to be conducted by law enforcement agencies, and prosecutions for violations. Disorderly persons offenses are adjudicated by municipal courts, in most circumstances.

Finally, the OLS notes the overall expenditure and revenue impacts for any one public agency will depend on the change in the number of government records requests and the change in the number of complaints filed by requestors. The OLS does not have specific data regarding the government records requests handled by public agencies in the State.

*Section: State Government*  
*Analyst: Ryan Brinkerhoff*  
*Deputy Counsel*  
*Approved: Thomas Koenig*  
*Legislative Budget and Finance Officer*

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# Governor Murphy Takes Action on Legislation

06/5/2024

**TRENTON** – Today, Governor Murphy signed the following bill into law:

**S-2930/A-4045 (Sarlo, A.M. Bucco/Danielsen, Flynn)** – Makes various changes to process for access to government records; appropriates \$10 million

**GOVERNOR'S STATEMENT UPON SIGNING  
SENATE BILL NO. 2930  
(SECOND REPRINT)**

Today I am signing Senate Bill No. 2930 (Second Reprint), which makes various changes to the Open Public Records Act and appropriates \$10 million.

Before I discuss the merits of the bill, I want to acknowledge that I know that this decision will disappoint many members of the advocacy community, including a number of social justice, labor, and environmental organizations, among others. I have heard the many objections to the bill directly, and I know that they are made in good faith and with good intentions. I also commend everyone who has engaged in this debate for making their voice heard, which is the foundation of our democratic system of government.

Perhaps the most troubling concern that I have heard is that signing this bill will both enable corruption and erode trust in our democracy. I understand we are living in a moment where our democracy feels more fragile than ever, with a former President who has been indicted for inciting an insurrection during his final days in office inexplicably within striking distance of the White House once again. And I know that closer to home, New Jerseyans across the political spectrum feel deeply betrayed and outraged by the serious allegations that our senior United States Senator accepted bribes from a foreign government.

If I believed that this bill would enable corruption in any way, I would unhesitatingly veto it. In my first week in office, I ordered a comprehensive audit of the Economic Development Authority's tax incentive programs, as I had reason to believe that under the prior administration, they were designed to favor special interests and the well-connected. I successfully fought to reform those programs and introduce important safeguards, even when there was little appetite to amend them. In 2021, when legislation was sent to my desk that would have eliminated mandatory prison sentences for public corruption offenses, I vetoed it on multiple occasions. And more recently, when Senator Menendez was indicted, I called for his immediate resignation that same day. Throughout my tenure in office, I have sought not only to lead an administration free from corruption, but also to speak out against it in all of its forms.

As for the health of our democracy here in New Jersey, I know that it is far more robust than when my Administration took office. Since I took office, in partnership with the Legislature, we have established automatic voter registration and online voter registration. We enacted in-person early

voting and made it far easier to vote by mail. We restored voting rights for over 80,000 New Jerseyans on probation or parole. We enacted legislation that will allow 17-year-olds to vote in primaries if they turn 18 by the general election. And we are by no means done. I continue to call for legislation allowing same-day voter registration and enabling 16- and 17-year-olds to vote in school board elections, and I am hopeful that these bills will move through the Legislature soon.

With this history in mind, when it comes to the legislation on my desk, I take the concerns regarding corruption and trust in our democracy extremely seriously. However, my responsibility as Governor is to evaluate the bill on the merits, regardless of how it may be perceived. And in making this evaluation, I am mindful that this bill was the product of a great deal of discussion and compromise.

The Open Public Records Act ("OPRA") was enacted in 2002. In the last 22 years, the statute has not been the subject of any type of comprehensive update until now. Today's world is very different than 2002, a time when the Internet was far less ubiquitous and there was vastly less access to individuals' personal information. While case law on OPRA has evolved, it is also appropriate for our democratic branches of government to take a look at the statute, informed by how various provisions have played out in practice.

The bill encourages public records to be placed on agency websites to the extent feasible, so they will be readily accessible even without an OPRA request, and appropriate funds to support those efforts. Furthermore, if the requestor is referred to the public agency's website, the bill requires that the agency assist requestors in locating those records. The bill also provides additional flexibility for submitting requests by allowing their submission via form, letter, or email. With regard to personal information, the bill takes a number of positive steps. It defines personal identifying information and specifically adds new protections for month and day of birth, personal email addresses, the street address portion of a person's primary or secondary home address, information about minors, and information protected under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

The bill also modernizes the Government Records Council ("GRC") to enhance public access in a number of ways. It requires the GRC to update its website periodically to better assist the public, and to create a database of OPRA cases in Superior Court so that the public has easy access to how those matters were handled and resolved. The bill also requires the GRC to use videoconferencing and conduct virtual meetings and hearings, so that all members of the public have access to their proceedings. The bill preserves the ability for requestors to file in the GRC without paying a filing fee, and requires the

GRC to promptly adjudicate matters to ensure that it remains a viable forum for challenging a denial of access.

In addition to these provisions that update the law to better reflect today's world, the bill also codifies a number of judicial decisions. For example, the bill requires a date range, a subject matter, and the identification of an employee, account, or job title of the individual whose records are to be searched. This is the standard laid out by the Appellate Division in *Burke v. Brandes*, 429 N.J. Super. 169 (App. Div. 2012). The bill codifies the Supreme Court's decision in *Gilleran v. Twp. of Bloomfield*, 227 N.J. 159 (2016) governing access to security camera recordings and expands that access to be available under OPRA, not just the common law right of access. And in addition to creating new statutory protections for individuals' privacy, as described above, the bill also codifies judicial decisions protecting the personal information that citizens provide to the government, such as contact information provided to receive updates from the government, *Rise Against Hate v. Cherry Hill Twp.*, A-1440-21 (App. Div. Mar. 29, 2023).

The provision of the bill that has undoubtedly received the most attention is the change to fee shifting. Under current law, when the requestor is a prevailing party, the award of attorney's fees is mandatory. It is clear that many advocacy groups firmly believe that mandatory fee shifting is necessary to incentivize compliance with OPRA. At the same time, many local officials argue that this provision unnecessarily incentivizes litigation when municipal and county clerks are trying their best to abide by the statute and denials of access are inadvertent or unintentional. These local officials note that this litigation, and the attorney's fees that result, impose significant costs on taxpayers.

I am aware that many discussions were held in an effort to find a compromise on this issue. Ultimately, the Legislature included language that continues mandatory fee shifting, uncapped, in instances where there is 1) bad faith by the public entity; 2) a knowing and willful violation of OPRA; or 3) an unreasonable denial of access. In all other circumstances, attorney's fees may be awarded - the same standard that is currently in place under the Law Against Discrimination, the Civil Rights Act, and the federal Freedom of Information Act. Just as state and federal courts have been able to responsibly decide the issue of attorney's fees under these other statutes, I am confident that both our courts and the GRC will utilize their new discretion regarding attorney's fees wisely. My Administration will monitor the implementation of this provision closely to ensure there are no adverse impacts.

Another provision that has garnered a significant amount of controversy concerns the ability of public entities to sue requestors. In order to prevent abuse, the bill establishes an extraordinarily high standard for such lawsuits, as the public

entity must prove harassment or substantial interruption of government functions by clear and convincing evidence. Some advocacy groups claim that the mere threat of a lawsuit will deter citizens from making requests under OPRA. However, I signed an important law last September that protects individuals from meritless lawsuits intended to intimidate them for exercising their free speech rights. I am confident that this "anti-SLAPP" law will allow individuals to obtain expedited dismissals of any improper lawsuits brought under this new provision of OPRA.

After a thorough examination of the provisions of the bill, I am persuaded that the changes, viewed comprehensively, are relatively modest. The categories of documents currently subject to OPRA does not change at all. Under the bill, the manner by which requests are made and the specificity required for such requests is consistent with current practice. Important protections, such as the ability to file requests anonymously and have access to records related to collective bargaining, are preserved or strengthened.

With respect to the GRC, as mentioned earlier, the bill requires it to make better use of technology and remain accessible to the public, and also provides an additional appropriation of \$6 million to help the GRC carry out its work. Given the GRC's important role, especially in applying the attorney's fees provision, I will ensure that my four appointments to the GRC are well-respected figures with unimpeachable credentials on issues of public access and the public interest.

As mentioned earlier, this legislation was proposed after extensive deliberation and compromise, and passed with bipartisan support in both chambers. In addition to support from the Senate President and the Speaker, the Senate Minority Leader was a prime sponsor of the bill and the Assembly Minority Leader voted for it as well. Over a hundred mayors from both parties have asked for it to be enacted into law. I understand that some may view this support cynically, but I do not believe it is fair to dismiss an overwhelming bipartisan consensus from local elected officials. Serving in local elected office is a deeply thankless and glamour-free job, and I have consistently found mayors from both parties to be dedicated and hard-working public servants. Mayors subject themselves to constant scrutiny by their neighbors and their very own communities, especially in the age of social media, and I simply reject the idea that those calling for the bill's passage are part of a nefarious plot to evade transparency and accountability.

The enactment of OPRA in 2002 was a landmark achievement that should be celebrated. But like any document meant to apply to a changing society, it must be periodically updated, particularly as technology is rapidly evolving. The Legislature's task of balancing all of the interests involved

in this challenging issue was not an easy one and should not be subject to derision. While I do not believe the concerns raised about some provisions of the bill are irrational, I am persuaded that the safeguards in the bill and the protections provided by the GRC and the courts are sufficient to mitigate them.

As a result, I am making the decision to sign this bill into law.

Date: June 5, 2024

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor