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LAW/KR

P.L.2014, CHAPTER 19, *approved July 30, 2014*
Assembly, No. 1676 (*First Reprint*)

1 AN ACT concerning victims of crime and amending P.L.2012, c.27
2 ¹**[and]** ¹P.L.1995, c.23 ¹, and P.L.2001, c.404¹.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 3 of P.L.2012, c.27 (C.52:4B-36.2) is amended to
8 read as follows:

9 3. Pursuant to Article I, paragraph 22 of the New Jersey
10 Constitution¹, no¹:

11 a. A crime victim shall not be required to pay the maintenance,
12 support, rehabilitation, or other costs arising from the imprisonment
13 or commitment of a victimizer as a result of the crime; and

14 b. A crime victim¹ **[, or alleged crime victim.]¹** shall not be
15 charged any fee otherwise prescribed by law or regulation to obtain
16 copies of ¹**[a government record, as defined]** the victim's own
17 records to which the victim is entitled to access as provided¹ in
18 section 1 of P.L.1995, c.23 (C.47:1A-1.1)¹ **[, relating to that**
19 person's victimization or alleged victimization]¹, including, but not
20 limited to, any law enforcement agency report, domestic violence
21 offense report, and temporary or permanent restraining order.

22 (cf: P.L.2012, c.27, s.3)

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

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

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

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 "Government record" or "record" means any paper, written or
39 printed book, document, drawing, map, plan, photograph,
40 microfilm, data processed or image processed document,

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:

¹Assembly AJU committee amendments adopted February 24, 2014.

1 information stored or maintained electronically or by sound-
2 recording or in a similar device, or any copy thereof, that has been
3 made, maintained or kept on file in the course of his or its official
4 business by any officer, commission, agency or authority of the
5 State or of any political subdivision thereof, including subordinate
6 boards thereof, or that has been received in the course of his or its
7 official business by any such officer, commission, agency, or
8 authority of the State or of any political subdivision thereof,
9 including subordinate boards thereof. The terms shall not include
10 inter-agency or intra-agency advisory, consultative, or deliberative
11 material.

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

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

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

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

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

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

40 for use in the field of forensic pathology or for use in medical or
41 scientific education or research, or

42 for use by any law enforcement agency in this State or any other
43 state or federal law enforcement agency;

44 criminal investigatory records;

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

1 any written request by a 'crime' victim '【or alleged victim】' for
2 a record '【relating to that person's victimization or alleged
3 victimization】 to which the victim is entitled to access as provided
4 in this section' , including, but not limited to, any law enforcement
5 agency report, domestic violence offense report, and temporary or
6 permanent restraining order;

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

11 personal identifying information received by the Division of Fish
12 and Wildlife in the Department of Environmental Protection in
13 connection with the issuance of any license authorizing hunting
14 with a firearm. For the purposes of this paragraph, personal
15 identifying information shall include, but not be limited to, identity,
16 name, address, social security number, telephone number, fax
17 number, driver's license number, email address, or social media
18 address of any applicant or licensee;

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

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

28 administrative or technical information regarding computer
29 hardware, software and networks which, if disclosed, would
30 jeopardize computer security;

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

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

37 information which, if disclosed, would give an advantage to
38 competitors or bidders;

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

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

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

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

11 that portion of any document which discloses the social security
12 number, credit card number, unlisted telephone number or driver
13 license number of any person; except for use by any government
14 agency, including any court or law enforcement agency, in carrying
15 out its functions, or any private person or entity acting on behalf
16 thereof, or any private person or entity seeking to enforce payment
17 of court-ordered child support; except with respect to the disclosure
18 of driver information by the New Jersey Motor Vehicle
19 Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-
20 3.4); and except that a social security number contained in a record
21 required by law to be made, maintained or kept on file by a public
22 agency shall be disclosed when access to the document or
23 disclosure of that information is not otherwise prohibited by State
24 or federal law, regulation or order or by State statute, resolution of
25 either or both houses of the Legislature, Executive Order of the
26 Governor, rule of court or regulation promulgated under the
27 authority of any statute or executive order of the Governor.

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

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

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

45 records of pursuit of charitable contributions or records
46 containing the identity of a donor of a gift if the donor requires non-
47 disclosure of the donor's identity as a condition of making the gift

1 provided that the donor has not received any benefits of or from the
2 institution of higher education in connection with such gift other
3 than a request for memorialization or dedication;

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

7 information contained on individual admission applications; and
8 information concerning student records or grievance or
9 disciplinary proceedings against a student to the extent disclosure
10 would reveal the identity of the student.

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

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

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

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

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

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

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

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

14 "Victims' rights agency" means a public agency, or part thereof,
15 the primary responsibility of which is providing services, including
16 but not limited to food, shelter, or clothing, medical, psychiatric,
17 psychological or legal services or referrals, information and referral
18 services, counseling and support services, or financial services to
19 victims of crimes, including victims of sexual assault, domestic
20 violence, violent crime, child endangerment, child abuse or child
21 neglect, and the Victims of Crime Compensation Board, established
22 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) ¹and continued as
23 the Victims of Crime Compensation Office pursuant to P.L.2007,
24 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008¹.
25 (cf: P.L.2013, c.116)

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

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

1 for use by any government agency, including any court or law
2 enforcement agency, in carrying out its functions, or any private
3 person or entity acting on behalf thereof, or any private person or
4 entity seeking to enforce payment of court-ordered child support;
5 except with respect to the disclosure of driver information by the
6 New Jersey Motor Vehicle Commission as permitted by section 2 of
7 P.L.1997, c.188 (C.39:2-3.4); and except that a social security
8 number contained in a record required by law to be made,
9 maintained or kept on file by a public agency shall be disclosed
10 when access to the document or disclosure of that information is not
11 otherwise prohibited by State or federal law, regulation or order or
12 by State statute, resolution of either or both houses of the
13 Legislature, Executive Order of the Governor, rule of court or
14 regulation promulgated under the authority of any statute or
15 executive order of the Governor. Except where an agency can
16 demonstrate an emergent need, a regulation that limits access to
17 government records shall not be retroactive in effect or applied to
18 deny a request for access to a government record that is pending
19 before the agency, the council or a court at the time of the adoption
20 of the regulation.

21 b. (1) A copy or copies of a government record may be
22 purchased by any person upon payment of the fee prescribed by law
23 or regulation. Except as otherwise provided by law or regulation
24 and except as provided in paragraph (2) of this subsection, the fee
25 assessed for the duplication of a government record embodied in the
26 form of printed matter shall be \$0.05 per letter size page or smaller,
27 and \$0.07 per legal size page or larger. If a public agency can
28 demonstrate that its actual costs for duplication of a government
29 record exceed the foregoing rates, the public agency shall be
30 permitted to charge the actual cost of duplicating the record. The
31 actual cost of duplicating the record, upon which all copy fees are
32 based, shall be the cost of materials and supplies used to make a
33 copy of the record, but shall not include the cost of labor or other
34 overhead expenses associated with making the copy except as
35 provided for in subsection c. of this section. Access to electronic
36 records and non-printed materials shall be provided free of charge,
37 but the public agency may charge for the actual costs of any needed
38 supplies such as computer discs.

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

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

1 public agency may charge, in addition to the actual cost of
2 duplicating the record, a special service charge that shall be
3 reasonable and shall be based upon the actual direct cost of
4 providing the copy or copies; provided, however, that in the case of
5 a municipality, rates for the duplication of particular records when
6 the actual cost of copying exceeds the foregoing rates shall be
7 established in advance by ordinance. The requestor shall have the
8 opportunity to review and object to the charge prior to it being
9 incurred.

10 d. A custodian shall permit access to a government record and
11 provide a copy thereof in the medium requested if the public agency
12 maintains the record in that medium. If the public agency does not
13 maintain the record in the medium requested, the custodian shall
14 either convert the record to the medium requested or provide a copy
15 in some other meaningful medium. If a request is for a record: (1)
16 in a medium not routinely used by the agency; (2) not routinely
17 developed or maintained by an agency; or (3) requiring a substantial
18 amount of manipulation or programming of information technology,
19 the agency may charge, in addition to the actual cost of duplication,
20 a special charge that shall be reasonable and shall be based on the
21 cost for any extensive use of information technology, or for the
22 labor cost of personnel providing the service, that is actually
23 incurred by the agency or attributable to the agency for the
24 programming, clerical, and supervisory assistance required, or both.

25 e. Immediate access ordinarily shall be granted to budgets,
26 bills, vouchers, contracts, including collective negotiations
27 agreements and individual employment contracts, and public
28 employee salary and overtime information.

29 f. The custodian of a public agency shall adopt a form for the
30 use of any person who requests access to a government record held
31 or controlled by the public agency. The form shall provide space
32 for the name, address, and phone number of the requestor and a
33 brief description of the government record sought. The form shall
34 include space for the custodian to indicate which record will be
35 made available, when the record will be available, and the fees to be
36 charged. The form shall also include the following: (1) specific
37 directions and procedures for requesting a record; (2) a statement as
38 to whether prepayment of fees or a deposit is required; (3) the time
39 period within which the public agency is required by P.L.1963, c.73
40 (C.47:1A-1 et seq.) as amended and supplemented, to make the
41 record available; (4) a statement of the requestor's right to challenge
42 a decision by the public agency to deny access and the procedure
43 for filing an appeal; (5) space for the custodian to list reasons if a
44 request is denied in whole or in part; (6) space for the requestor to
45 sign and date the form; (7) space for the custodian to sign and date
46 the form if the request is fulfilled or denied. The custodian may
47 require a deposit against costs for reproducing documents sought

1 through an anonymous request whenever the custodian anticipates
2 that the information thus requested will cost in excess of \$5 to
3 reproduce.

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

26 h. Any officer or employee of a public agency who receives a
27 request for access to a government record shall forward the request
28 to the custodian of the record or direct the requestor to the
29 custodian of the record.

30 i. Unless a shorter time period is otherwise provided by
31 statute, regulation, or executive order, a custodian of a government
32 record shall grant access to a government record or deny a request
33 for access to a government record as soon as possible, but not later
34 than seven business days after receiving the request, provided that
35 the record is currently available and not in storage or archived. In
36 the event a custodian fails to respond within seven business days
37 after receiving a request, the failure to respond shall be deemed a
38 denial of the request, unless the requestor has elected not to provide
39 a name, address or telephone number, or other means of contacting
40 the requestor. If the requestor has elected not to provide a name,
41 address, or telephone number, or other means of contacting the
42 requestor, the custodian shall not be required to respond until the
43 requestor reappears before the custodian seeking a response to the
44 original request. If the government record is in storage or archived,
45 the requestor shall be so advised within seven business days after
46 the custodian receives the request. The requestor shall be advised
47 by the custodian when the record can be made available. If the

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

3 j. A custodian shall post prominently in public view in the part
4 or parts of the office or offices of the custodian that are open to or
5 frequented by the public a statement that sets forth in clear, concise
6 and specific terms the right to appeal a denial of, or failure to
7 provide, access to a government record by any person for
8 inspection, examination, or copying or for purchase of copies
9 thereof and the procedure by which an appeal may be filed.

10 k. The files maintained by the Office of the Public Defender
11 that relate to the handling of any case shall be considered
12 confidential and shall not be open to inspection by any person
13 unless authorized by law, court order, or the State Public Defender.¹
14 (cf: P.L.2010, c.75, s.5)

15

16 **【3】** 4.¹. This act shall take effect on the first day of the fourth
17 month following enactment.

18

19

20

21

22 Provides that crime victims do not have to pay fees to obtain
23 records relating to the crime and that requests for such records are
24 not public information.

ASSEMBLY, No. 1676

STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman JON M. BRAMNICK

District 21 (Morris, Somerset and Union)

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

SYNOPSIS

Provides that crime victims do not have to pay fees to obtain government records and that requests for records are not public information.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning victims of crime and amending P.L.2012, c.27
2 and P.L.1995, c.23.

3

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

6

7 1. Section 3 of P.L.2012, c.27 (C.52:4B-36.2) is amended to
8 read as follows:

9 3. Pursuant to Article I, paragraph 22 of the New Jersey
10 Constitution~~], no~~]:

11 a. A crime victim shall not be required to pay the maintenance,
12 support, rehabilitation, or other costs arising from the imprisonment
13 or commitment of a victimizer as a result of the crime; and

14 b. A crime victim, or alleged crime victim, shall not be charged
15 any fee otherwise prescribed by law or regulation to obtain copies
16 of a government record, as defined in section 1 of P.L.1995, c.23
17 (C.47:1A-1.1), relating to that person's victimization or alleged
18 victimization, including, but not limited to, any law enforcement
19 agency report, domestic violence offense report, and temporary or
20 permanent restraining order.

21 (cf: P.L.2012, c.27, s.3)

22

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

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

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

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

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

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 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 deliberative
5 material.

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

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

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

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

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

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

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

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

38 criminal investigatory records;

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

41 any written request by a victim or alleged victim for a record
42 relating to that person's victimization or alleged victimization,
43 including, but not limited to, any law enforcement agency report,
44 domestic violence offense report, and temporary or permanent
45 restraining order;

46 trade secrets and proprietary commercial or financial information
47 obtained from any source. For the purposes of this paragraph, trade

1 secrets shall include data processing software obtained by a public
2 body under a licensing agreement which prohibits its disclosure;
3 any record within the attorney-client privilege. This paragraph
4 shall not be construed as exempting from access attorney or
5 consultant bills or invoices except that such bills or invoices may be
6 redacted to remove any information protected by the attorney-client
7 privilege;
8 administrative or technical information regarding computer
9 hardware, software and networks which, if disclosed, would
10 jeopardize computer security;
11 emergency or security information or procedures for any
12 buildings or facility which, if disclosed, would jeopardize security
13 of the building or facility or persons therein;
14 security measures and surveillance techniques which, if
15 disclosed, would create a risk to the safety of persons, property,
16 electronic data or software;
17 information which, if disclosed, would give an advantage to
18 competitors or bidders;
19 information generated by or on behalf of public employers or
20 public employees in connection with any sexual harassment
21 complaint filed with a public employer or with any grievance filed
22 by or against an individual or in connection with collective
23 negotiations, including documents and statements of strategy or
24 negotiating position;
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, or that form, issued by the United
31 States Government, or any other certificate of honorable discharge,
32 or copy thereof, from active service or the reserves of a branch of
33 the Armed Forces of the United States, or from service in the
34 organized militia of the State, that has been filed by an individual
35 with a public agency, except that a veteran or the veteran's spouse
36 or surviving spouse shall have access to the veteran's own records;
37 and
38 that portion of any document which discloses the social security
39 number, credit card number, unlisted telephone number or driver
40 license number of any person; except for use by any government
41 agency, including any court or law enforcement agency, in carrying
42 out its functions, or any private person or entity acting on behalf
43 thereof, or any private person or entity seeking to enforce payment
44 of court-ordered child support; except with respect to the disclosure
45 of driver information by the New Jersey Motor Vehicle
46 Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-
47 3.4); and except that a social security number contained in a record

1 required by law to be made, maintained or kept on file by a public
2 agency shall be disclosed when access to the document or
3 disclosure of that information is not otherwise prohibited by State
4 or federal law, regulation or order or by State statute, resolution of
5 either or both houses of the Legislature, Executive Order of the
6 Governor, rule of court or regulation promulgated under the
7 authority of any statute or executive order of the Governor.

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 and/or documents obtained
32 by 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 "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

1 the State or combination of political subdivisions, and any
2 independent authority, commission, instrumentality or agency
3 created by a political subdivision or combination of political
4 subdivisions.

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

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

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

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

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

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

25 "Victims' rights agency" means a public agency, or part thereof,
26 the primary responsibility of which is providing services, including
27 but not limited to food, shelter, or clothing, medical, psychiatric,
28 psychological or legal services or referrals, information and referral
29 services, counseling and support services, or financial services to
30 victims of crimes, including victims of sexual assault, domestic
31 violence, violent crime, child endangerment, child abuse or child
32 neglect, and the Victims of Crime Compensation Board, established
33 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.).
34 (cf: P.L.2005, c.170, s.1)

35
36 3. This act shall take effect on the first day of the fourth month
37 following enactment.

38
39
40 STATEMENT

41
42 This bill would prohibit a crime victim, or alleged crime victim,
43 from being charged any fee that otherwise would be charged to
44 obtain a government record relating to that person's victimization
45 or alleged victimization. Under the bill, a victim would not be
46 charged for any law enforcement agency report, domestic violence
47 offense report, or temporary or permanent restraining order.

1 Current law defines a “government record” as any paper, written
2 or printed book, document, drawing, map, plan, photograph,
3 microfilm, data processed or image processed document,
4 information stored or maintained electronically or by sound-
5 recording or in a similar device, or any copy thereof, that has been
6 made, maintained or kept on file in the course of his or its official
7 business by any officer, commission, agency or authority of the
8 State or of any political subdivision thereof, including subordinate
9 boards thereof, or that has been received in the course of his or its
10 official business by any such officer, commission, agency, or
11 authority of the State or of any political subdivision thereof,
12 including subordinate boards thereof.

13 The bill also would amend the Open Public Records Act (OPRA)
14 to specify that any written request by a victim or alleged victim for
15 a record relating to that person’s victimization or alleged
16 victimization is not a public record.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1676

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 2014

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 1676.

This bill as amended would prohibit a crime victim from being charged any fee that otherwise would be charged to obtain a record relating to the crime. Under the bill, a victim would not be charged for copies of any law enforcement agency report, domestic violence offense report, or temporary or permanent restraining order.

As introduced, the bill had applied to a “crime victim or alleged crime victim” and to “victimization or alleged victimization.” The committee amendments remove the reference to “alleged” crime victims so that the bill refers only to crime victims. The amendments also remove the references to “victimization” and clarify that crime victims will not be charged for access to their own records. Victims are entitled to such access under the current provisions of the Open Public Records Act.

Current law defines a “government record” as 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 bill also would amend the Open Public Records Act (OPRA) to specify that any written request by a victim for a record relating to that person’s victimization is not a public record.

This bill was pre-filed for introduction in the 2014-2015 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

1. Delete the phrases “alleged crime victim,” “victimization,” and “alleged victimization” from section 1 of the bill.

2. Delete these same phrases from section 2 of the bill and add language to section 2 concerning “records to which the victim is entitled to access as provided in this section” (section 1 of P.L.1995, c.23 (C.47:1A-1.1)).

3. Add a new section 3 to the bill, amending section 6 of P.L.2001, c.404 (C.47:1A-5), to specify that no fee shall be charged to a victim of a crime for copies of a record to which the victim is entitled to access under the Open Public Records Act.

4. Update the synopsis to reflect the changes made by the amendments.

[Corrected Copy]

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1676

STATE OF NEW JERSEY

DATED: MAY 8, 2014

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1676 (1R).

This bill prohibits a crime victim from being charged any fee that otherwise would be charged to obtain a record relating to the crime. Under the bill, a victim will not be charged for copies of any law enforcement agency report, domestic violence offense report, or temporary or permanent restraining order.

The bill clarifies that crime victims will not be charged for access to their own records. Victims are currently entitled to such access under the provisions of the Open Public Records Act.

Current law defines a “government record” as 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 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 official business by any such officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof.

The bill also amends the Open Public Records Act to specify that any written request by a victim for a record relating to that person’s victimization is not itself a public record.

FISCAL IMPACT:

The Office of Legislative Services estimates an indeterminate but minimal decrease in local and State government public records production reimbursements.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 1676

STATE OF NEW JERSEY 216th LEGISLATURE

DATED: MAY 13, 2014

SUMMARY

- Synopsis:** Provides that crime victims do not have to pay fees to obtain records relating to the crime and that requests for such records are not public information.
- Type of Impact:** Revenue loss.
- Agencies Affected:** Department of Law and Public Safety; Division of State Police; Municipal Government; Local Law Enforcement; Victims of Crime Compensation Office.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Revenue	Indeterminate Potential Revenue Loss.		
Local Revenue	Indeterminate Potential Revenue Loss.		

- The Office of Legislative Services finds that the provisions of this bill may have an indeterminate fiscal impact on the State and certain municipalities that currently charge for records. Municipalities that currently charge a fee for these records, as well as the State, will experience a revenue loss.
- Prohibits a crime victim from being charged any fee that otherwise would be charged to obtain a record relating to the crime.
- Amends the Open Public Records Act (OPRA) to specify that any written request by a victim for a record relating to that person's victimization is not a public record subject to government disclosure.
- The fees for copies of records are set forth in OPRA and are charged on a per page basis, but access to electronic records and non printed material may be free, less the actual costs of supplies such as computer discs.

BILL DESCRIPTION

Assembly Bill No. 1676 (1R) of 2014 prohibits a crime victim from being charged any fee that otherwise would be charged to obtain a government record relating to the crime.

Under the bill, a victim would not be charged for copies of any law enforcement agency report, domestic violence offense report, or temporary or permanent restraining order.

Current law defines a “government record” as 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 bill also would amend the OPRA to specify that any written request by a victim for a record relating to that person’s victimization is not a public record.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services finds that the provisions of this bill may have an indeterminate fiscal impact on the State and certain municipalities that currently charge for copies of records. Municipalities that currently charge a fee for these records will experience a revenue loss.

Initial research indicates that fees vary from municipality to municipality. Some municipalities charge no fee, some charge “in person fees” per page, and others charge a flat rate for a certain number of pages and then an additional fee per page. Further, under the State’s OPRA, no fees are to be charged for electronic records except for the actual cost of the supplies.

Section: Law and Public Safety

Analyst: Kristin Brunner Santos
Senior Fiscal Analyst

Approved: David J. Rosen
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.).

SENATE, No. 1524

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED FEBRUARY 27, 2014

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

SYNOPSIS

Provides that crime victims do not have to pay fees to obtain government records and that requests for records are not public information.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/6/2014)

1 AN ACT concerning victims of crime and amending P.L.2012, c.27
2 and P.L.1995, c.23.

3

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

6

7 1. Section 3 of P.L.2012, c.27 (C.52:4B-36.2) is amended to
8 read as follows:

9 3. Pursuant to Article I, paragraph 22 of the New Jersey
10 Constitution**[, no]**:

11 a. A crime victim shall not be required to pay the maintenance,
12 support, rehabilitation, or other costs arising from the imprisonment
13 or commitment of a victimizer as a result of the crime; and

14 b. A crime victim, or alleged crime victim, shall not be charged
15 any fee otherwise prescribed by law or regulation to obtain copies
16 of a record relating to that person's victimization or alleged
17 victimization, including, but not limited to, any law enforcement
18 agency report, domestic violence offense report, and temporary or
19 permanent restraining order.

20 (cf: P.L.2012, c.27, s.3)

21

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

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

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

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

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

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 authority of the State or of any political subdivision thereof,
2 including subordinate boards thereof. The terms shall not include
3 inter-agency or intra-agency advisory, consultative, or deliberative
4 material.

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

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

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

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

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

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

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

35 for use by any law enforcement agency in this State or any other
36 state or federal law enforcement agency;

37 criminal investigatory records;

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

40 any written request by a victim or alleged victim for a record
41 relating to that person's victimization or alleged victimization,
42 including, but not limited to, any law enforcement agency report,
43 domestic violence offense report, and temporary or permanent
44 restraining order;

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

1 personal identifying information received by the Division of Fish
2 and Wildlife in the Department of Environmental Protection in
3 connection with the issuance of any license authorizing hunting
4 with a firearm. For the purposes of this paragraph, personal
5 identifying information shall include, but not be limited to, identity,
6 name, address, social security number, telephone number, fax
7 number, driver's license number, email address, or social media
8 address of any applicant or licensee; trade secrets and
9 proprietary commercial or financial information obtained from any
10 source. For the purposes of this paragraph, trade secrets shall
11 include data processing software obtained by a public body under a
12 licensing agreement which prohibits its disclosure;
13 any record within the attorney-client privilege. This paragraph
14 shall not be construed as exempting from access attorney or
15 consultant bills or invoices except that such bills or invoices may be
16 redacted to remove any information protected by the attorney-client
17 privilege;
18 administrative or technical information regarding computer
19 hardware, software and networks which, if disclosed, would
20 jeopardize computer security;
21 emergency or security information or procedures for any
22 buildings or facility which, if disclosed, would jeopardize security
23 of the building or facility or persons therein;
24 security measures and surveillance techniques which, if
25 disclosed, would create a risk to the safety of persons, property,
26 electronic data or software;
27 information which, if disclosed, would give an advantage to
28 competitors or bidders;
29 information generated by or on behalf of public employers or
30 public employees in connection with any sexual harassment
31 complaint filed with a public employer or with any grievance filed
32 by or against an individual or in connection with collective
33 negotiations, including documents and statements of strategy or
34 negotiating position;
35 information which is a communication between a public agency
36 and its insurance carrier, administrative service organization or risk
37 management office;
38 information which is to be kept confidential pursuant to court
39 order;
40 any copy of form DD-214, or that form, issued by the United
41 States Government, or any other certificate of honorable discharge,
42 or copy thereof, from active service or the reserves of a branch of
43 the Armed Forces of the United States, or from service in the
44 organized militia of the State, that has been filed by an individual
45 with a public agency, except that a veteran or the veteran's spouse
46 or surviving spouse shall have access to the veteran's own records;
47 and

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

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

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

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

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

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

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

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

17 "Public agency" or "agency" means any of the principal
18 departments in the Executive Branch of State Government, and any
19 division, board, bureau, office, commission or other instrumentality
20 within or created by such department; the Legislature of the State
21 and any office, board, bureau or commission within or created by
22 the Legislative Branch; and any independent State authority,
23 commission, instrumentality or agency. The terms also mean any
24 political subdivision of the State or combination of political
25 subdivisions, and any division, board, bureau, office, commission or
26 other instrumentality within or created by a political subdivision of
27 the State or combination of political subdivisions, and any
28 independent authority, commission, instrumentality or agency
29 created by a political subdivision or combination of political
30 subdivisions.

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

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

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

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

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

46 "Victim of a crime" means a person who has suffered personal or
47 psychological injury or death or incurs loss of or injury to personal
48 or real property as a result of a crime, or if such a person is

1 deceased or incapacitated, a member of that person's immediate
2 family.

3 "Victims' rights agency" means a public agency, or part thereof,
4 the primary responsibility of which is providing services, including
5 but not limited to food, shelter, or clothing, medical, psychiatric,
6 psychological or legal services or referrals, information and referral
7 services, counseling and support services, or financial services to
8 victims of crimes, including victims of sexual assault, domestic
9 violence, violent crime, child endangerment, child abuse or child
10 neglect, and the Victims of Crime Compensation Board, established
11 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.).
12 (cf: P.L.2013, c.116 s.1)

13
14 3. This act shall take effect on the first day of the fourth month
15 following enactment.

16
17
18 STATEMENT

19
20 This bill would prohibit a crime victim, or alleged crime victim,
21 from being charged any fee that otherwise would be charged to
22 obtain copies of a record relating to that person's victimization or
23 alleged victimization. Under the bill, a victim would not be
24 charged for any law enforcement agency report, domestic violence
25 offense report, or temporary or permanent restraining order.

26 Under the Open Public Records Act (OPRA), victim's records
27 are not considered "government records" and are therefore not
28 subject to public disclosure, except that a victim is entitled to
29 request copies of his or her own records. The bill would also
30 amend OPRA to specify that any written request by a victim for a
31 record relating to that person's victimization or alleged
32 victimization is not a public record.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1524

STATE OF NEW JERSEY

DATED: MAY 5, 2014

The Senate State Government, Wagering, Tourism and Historic Preservation Committee reports favorably a Senate Committee Substitute for Senate Bill No. 1524.

This substitute would prohibit a crime victim from being charged any fee that otherwise would be charged to obtain a record relating to the crime. Under the bill, a victim would not be charged for copies of any law enforcement agency report, domestic violence offense report, or temporary or permanent restraining order.

As introduced, the bill had applied to a “crime victim or alleged crime victim” and to “victimization or alleged victimization.” The committee substitute removes the reference to “alleged” crime victims so that the bill refers only to crime victims. The substitute also removes the references to “victimization” and clarify that crime victims will not be charged for access to their own records. Victims are entitled to such access under the current provisions of the Open Public Records Act.

The bill also would amend the Open Public Records Act (OPRA) to specify that any written request by a victim for a record relating to that person’s victimization is not a public record.

This Senate Committee Substitute for Senate, No. 1524 is identical to Assembly, No. 1676 (1R).

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1524
STATE OF NEW JERSEY
216th LEGISLATURE

DATED: MAY 13, 2014

SUMMARY

- Synopsis:** Provides that crime victims do not have to pay fees to obtain records relating to the crime and that requests for such records are not public information.
- Type of Impact:** Revenue loss.
- Agencies Affected:** Department of Law and Public Safety; Division of State Police; Municipal Government; Local Law Enforcement; Victims of Crime Compensation Office.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Revenue	Indeterminate Potential Revenue Loss.		
Local Revenue	Indeterminate Potential Revenue Loss.		

- The Office of Legislative Services finds that the provisions of this bill may have an indeterminate fiscal impact on the State and certain municipalities that currently charge for records. Municipalities that currently charge a fee for these records, as well as the State, will experience a revenue loss.
- Prohibits a crime victim from being charged any fee that otherwise would be charged to obtain a record relating to the crime.
- Amends the Open Public Records Act (OPRA) to specify that any written request by a victim for a record relating to that person's victimization is not a public record subject to government disclosure.
- The fees for copies of records are set forth in OPRA and are charged on a per page basis, but access to electronic records and non printed material may be free, less the actual costs of supplies such as computer discs.

BILL DESCRIPTION

The Senate Committee Substitute for Senate Bill No. 1524 of 2014 prohibits a crime victim from being charged any fee that otherwise would be charged to obtain a government record relating to the crime.

Under the bill, a victim would not be charged for copies of any law enforcement agency report, domestic violence offense report, or temporary or permanent restraining order.

Current law defines a “government record” as 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 bill also would amend the OPRA to specify that any written request by a victim for a record relating to that person’s victimization is not a public record.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services finds that the provisions of this bill may have an indeterminate fiscal impact on the State and certain municipalities that currently charge for copies of records. Municipalities that currently charge a fee for these records will experience a revenue loss.

Initial research indicates that fees vary from municipality to municipality. Some municipalities charge no fee, some charge “in person fees” per page, and others charge a flat rate for a certain number of pages and then an additional fee per page. Further, under the State’s OPRA, no fees are to be charged for electronic records except for the actual cost of the supplies.

Section: Law and Public Safety

Analyst: Kristin Brunner Santos
Senior Fiscal Analyst

Approved: David J. Rosen
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.).

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1524**

STATE OF NEW JERSEY

DATED: MAY 19, 2014

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1524 (SCS).

The substitute prohibits a crime victim from being charged any fee that otherwise would be charged to obtain a record relating to the crime. Under the bill, a victim will not be charged for copies of any law enforcement agency report, domestic violence offense report, or temporary or permanent restraining order.

The substitute clarifies that crime victims will not be charged for access to their own records. Victims are currently entitled to such access under the provisions of the Open Public Records Act.

Current law defines a “government record” as 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 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 official business by any such officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof.

The substitute also amends the Open Public Records Act to specify that any written request by a victim for a record relating to that person’s victimization is not itself a public record.

FISCAL IMPACT:

The Office of Legislative Services estimates an indeterminate but minimal decrease in local and State government public records production reimbursements.

**GOVERNOR'S STATEMENT UPON SIGNING
ASSEMBLY BILL NO. 1676
(First Reprint)**

Assembly Bill No. 1676 (First Reprint), which I have signed today, provides that crime victims shall not be charged fees to obtain copies of the victims' own records to which the victim is entitled to access under the Open Public Records Act. Those records include, but are not limited to, any law enforcement agency report, domestic violence offense report, and any temporary or permanent restraining order. The bill also provides that such record requests are not themselves subject to disclosure under the Open Public Records Act.

This bill continues New Jersey's strong policy of assisting victims of crimes by not charging them fees for access to their own records. Moreover, as the Superior Court of New Jersey has already recognized, disclosure of any person's Open Public Records Act requests implicates privacy, confidentiality, and competitive-advantage concerns. Because disclosure of crime victims' record requests raises the additional concern of their physical safety, the bill makes explicit for crime victims the previously established general policy that record requests made under the Open Public Records Act are not subject to disclosure.

Date: July 30, 2014

/s/ Chris Christie

Governor

Attest:

/s/ Christopher S. Porrino

Chief Counsel to the Governor