



(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))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** 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:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

"Murphy signs new state laws related to COVID-19 Murphy signs new state laws related to COVID-19." The Press of Atlantic City (NJ), March 23, 2020: 3A.

"Coronavirus NJ: Murphy signs bill to protect sick," northjersey.com, March 20, 2020

"Aid package protects against eviction," Suburban Trends, March 22, 2020

"J, at 'war' with coronavirus, changes public," northjersey.com, March 20, 2020

"J May change public records law during virus," The Record, March 21, 2020

"Murphy signs aid package halting evictions and" The Record, March 22, 2020

Rwh/cl

P.L. 2020, CHAPTER 10, *approved March 20, 2020*

Assembly, No. 3849

1 AN ACT concerning the availability of government records during  
2 periods of emergency and amending P.L.2001, c.404.

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

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

9 6. a. The custodian of a government record shall permit the  
10 record to be inspected, examined, and copied by any person during  
11 regular business hours; or in the case of a municipality having a  
12 population of 5,000 or fewer according to the most recent federal  
13 decennial census, a board of education having a total district  
14 enrollment of 500 or fewer, or a public authority having less than  
15 \$10 million in assets, during not less than six regular business hours  
16 over not less than three business days per week or the entity's  
17 regularly-scheduled business hours, whichever is less; unless a  
18 government record is exempt from public access by: P.L.1963, c.73  
19 (C.47:1A-1 et seq.) as amended and supplemented; any other  
20 statute; resolution of either or both houses of the Legislature;  
21 regulation promulgated under the authority of any statute or  
22 Executive Order of the Governor; Executive Order of the Governor;  
23 Rules of Court; any federal law; federal regulation; or federal order.  
24 Prior to allowing access to any government record, the custodian  
25 thereof shall redact from that record any information which  
26 discloses the social security number, credit card number, unlisted  
27 telephone number, or driver license number of any person; except  
28 for use by any government agency, including any court or law  
29 enforcement agency, in carrying out its functions, or any private  
30 person or entity acting on behalf thereof, or any private person or  
31 entity seeking to enforce payment of court-ordered child support;  
32 except with respect to the disclosure of driver information by the  
33 New Jersey Motor Vehicle Commission as permitted by section 2 of  
34 P.L.1997, c.188 (C.39:2-3.4); and except that a social security  
35 number contained in a record required by law to be made,  
36 maintained or kept on file by a public agency shall be disclosed  
37 when access to the document or disclosure of that information is not  
38 otherwise prohibited by State or federal law, regulation or order or  
39 by State statute, resolution of either or both houses of the  
40 Legislature, Executive Order of the Governor, rule of court or  
41 regulation promulgated under the authority of any statute or  
42 executive order of the Governor. Except where an agency can

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

6 b. (1) A copy or copies of a government record may be  
7 purchased by any person upon payment of the fee prescribed by law  
8 or regulation. Except as otherwise provided by law or regulation  
9 and except as provided in paragraph (2) of this subsection, the fee  
10 assessed for the duplication of a government record embodied in the  
11 form of printed matter shall be \$0.05 per letter size page or smaller,  
12 and \$0.07 per legal size page or larger. If a public agency can  
13 demonstrate that its actual costs for duplication of a government  
14 record exceed the foregoing rates, the public agency shall be  
15 permitted to charge the actual cost of duplicating the record. The  
16 actual cost of duplicating the record, upon which all copy fees are  
17 based, shall be the cost of materials and supplies used to make a  
18 copy of the record, but shall not include the cost of labor or other  
19 overhead expenses associated with making the copy except as  
20 provided for in subsection c. of this section. Access to electronic  
21 records and non-printed materials shall be provided free of charge,  
22 but the public agency may charge for the actual costs of any needed  
23 supplies such as computer discs.

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

27 c. Whenever the nature, format, manner of collation, or volume  
28 of a government record embodied in the form of printed matter to  
29 be inspected, examined, or copied pursuant to this section is such  
30 that the record cannot be reproduced by ordinary document copying  
31 equipment in ordinary business size or involves an extraordinary  
32 expenditure of time and effort to accommodate the request, the  
33 public agency may charge, in addition to the actual cost of  
34 duplicating the record, a special service charge that shall be  
35 reasonable and shall be based upon the actual direct cost of  
36 providing the copy or copies; provided, however, that in the case of  
37 a municipality, rates for the duplication of particular records when  
38 the actual cost of copying exceeds the foregoing rates shall be  
39 established in advance by ordinance. The requestor shall have the  
40 opportunity to review and object to the charge prior to it being  
41 incurred.

42 d. A custodian shall permit access to a government record and  
43 provide a copy thereof in the medium requested if the public agency  
44 maintains the record in that medium. If the public agency does not  
45 maintain the record in the medium requested, the custodian shall  
46 either convert the record to the medium requested or provide a copy  
47 in some other meaningful medium. If a request is for a record: (1)  
48 in a medium not routinely used by the agency; (2) not routinely

1 developed or maintained by an agency; or (3) requiring a substantial  
2 amount of manipulation or programming of information technology,  
3 the agency may charge, in addition to the actual cost of duplication,  
4 a special charge that shall be reasonable and shall be based on the  
5 cost for any extensive use of information technology, or for the  
6 labor cost of personnel providing the service, that is actually  
7 incurred by the agency or attributable to the agency for the  
8 programming, clerical, and supervisory assistance required, or both.

9 e. Immediate access ordinarily shall be granted to budgets,  
10 bills, vouchers, contracts, including collective negotiations  
11 agreements and individual employment contracts, and public  
12 employee salary and overtime information.

13 f. The custodian of a public agency shall adopt a form for the  
14 use of any person who requests access to a government record held  
15 or controlled by the public agency. The form shall provide space  
16 for the name, address, and phone number of the requestor and a  
17 brief description of the government record sought. The form shall  
18 include space for the custodian to indicate which record will be  
19 made available, when the record will be available, and the fees to be  
20 charged. The form shall also include the following: (1) specific  
21 directions and procedures for requesting a record; (2) a statement as  
22 to whether prepayment of fees or a deposit is required; (3) the time  
23 period within which the public agency is required by P.L.1963, c.73  
24 (C.47:1A-1 et seq.) as amended and supplemented, to make the  
25 record available; (4) a statement of the requestor's right to challenge  
26 a decision by the public agency to deny access and the procedure  
27 for filing an appeal; (5) space for the custodian to list reasons if a  
28 request is denied in whole or in part; (6) space for the requestor to  
29 sign and date the form; (7) space for the custodian to sign and date  
30 the form if the request is fulfilled or denied. The custodian may  
31 require a deposit against costs for reproducing documents sought  
32 through an anonymous request whenever the custodian anticipates  
33 that the information thus requested will cost in excess of \$5 to  
34 reproduce.

35 g. A request for access to a government record shall be in  
36 writing and hand-delivered, mailed, transmitted electronically, or  
37 otherwise conveyed to the appropriate custodian. A custodian shall  
38 promptly comply with a request to inspect, examine, copy, or  
39 provide a copy of a government record. If the custodian is unable  
40 to comply with a request for access, the custodian shall indicate the  
41 specific basis therefor on the request form and promptly return it to  
42 the requestor. The custodian shall sign and date the form and  
43 provide the requestor with a copy thereof. If the custodian of a  
44 government record asserts that part of a particular record is exempt  
45 from public access pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.)  
46 as amended and supplemented, the custodian shall delete or excise  
47 from a copy of the record that portion which the custodian asserts is  
48 exempt from access and shall promptly permit access to the

1 remainder of the record. If the government record requested is  
2 temporarily unavailable because it is in use or in storage, the  
3 custodian shall so advise the requestor and shall make arrangements  
4 to promptly make available a copy of the record. If a request for  
5 access to a government record would substantially disrupt agency  
6 operations, the custodian may deny access to the record after  
7 attempting to reach a reasonable solution with the requestor that  
8 accommodates the interests of the requestor and the agency.

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  
11 to the custodian of the record or direct the requestor to the  
12 custodian of the record.

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  
16 for access to a government record as soon as possible, but not later  
17 than seven business days after receiving the request, provided that  
18 the record is currently available and not in storage or archived. In  
19 the event a custodian fails to respond within seven business days  
20 after receiving a request, the failure to respond shall be deemed a  
21 denial of the request, unless the requestor has elected not to provide  
22 a name, address or telephone number, or other means of contacting  
23 the requestor. If the requestor has elected not to provide a name,  
24 address, or telephone number, or other means of contacting the  
25 requestor, the custodian shall not be required to respond until the  
26 requestor reappears before the custodian seeking a response to the  
27 original request. If the government record is in storage or archived,  
28 the requestor shall be so advised within seven business days after  
29 the custodian receives the request. The requestor shall be advised  
30 by the custodian when the record can be made available. If the  
31 record is not made available by that time, access shall be deemed  
32 denied.

33 (2) During a period declared pursuant to the laws of this State as  
34 a state of emergency, public health emergency, or state of local  
35 disaster emergency, the deadlines by which to respond to a request  
36 for, or grant or deny access to, a government record under  
37 paragraph (1) of this subsection or subsection e. of this section shall  
38 not apply, provided, however, that the custodian of a government  
39 record shall make a reasonable effort, as the circumstances permit,  
40 to respond to a request for access to a government record within  
41 seven business days 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 right to appeal a denial of, or failure to  
46 provide, access to a government record by any person for  
47 inspection, examination, or copying or for purchase of copies  
48 thereof and the procedure by which an appeal may be filed.

1 k. The files maintained by the Office of the Public Defender  
2 that relate to the handling of any case shall be considered  
3 confidential and shall not be open to inspection by any person  
4 unless authorized by law, court order, or the State Public Defender.  
5 (cf: P.L.2014, c.19, s.3)

6  
7 2. This act shall take effect immediately.

8  
9  
10 STATEMENT

11  
12 This bill provides that during a state of emergency, public health  
13 emergency, or state of local disaster emergency, a custodian of a  
14 government record for a public agency will be required only to  
15 make a reasonable effort to respond to a request for a government  
16 record within seven business days, or as soon as possible thereafter,  
17 as the circumstances permit.

18 Under current law, a custodian of a government record for a  
19 public agency is required to grant access to a government record or  
20 deny a request for access to a government record as soon as  
21 possible, but not later than seven business days after receiving the  
22 request, provided that the record is currently available and not in  
23 storage or archived. Failure to respond within seven business days  
24 is deemed a denial of the request. A custodian is also required to so  
25 notify a requestor within seven business days if a government  
26 record is in storage or archived, as well as when the record may be  
27 made available. Moreover, access to certain records, such as  
28 budgets, bills, vouchers, contracts, and public employee salary  
29 information, must be granted immediately.

30 This bill modifies those deadlines in the event of a public  
31 emergency to require instead that a records custodian make a  
32 reasonable effort to respond within seven business days, as  
33 circumstances permit.

34  
35  
36 \_\_\_\_\_  
37  
38 Modifies deadline by which public agency is required to respond  
39 to request for government record during period of emergency.

# ASSEMBLY, No. 3849

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 16, 2020

**Sponsored by:**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Assemblyman WILLIAM F. MOEN, JR.**

**District 5 (Camden and Gloucester)**

**Assemblywoman BRITNEE N. TIMBERLAKE**

**District 34 (Essex and Passaic)**

**Senator ANTHONY M. BUCCO**

**District 25 (Morris and Somerset)**

**Senator NILSA I. CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Senator DAWN MARIE ADDIEGO**

**District 8 (Atlantic, Burlington and Camden)**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**Senator CHRIS A. BROWN**

**District 2 (Atlantic)**

**Senator JAMES W. HOLZAPFEL**

**District 10 (Ocean)**

**Senator ROBERT W. SINGER**

**District 30 (Monmouth and Ocean)**

**Senator DECLAN J. O'SCANLON, JR.**

**District 13 (Monmouth)**

**Co-Sponsored by:**

**Assemblyman Spearman, Assemblywomen McKnight, Lopez,  
Assemblymen Freiman, Chiaravalloti, Mejia, Assemblywoman Jimenez,  
Assemblyman Giblin and Senator Stack**

**SYNOPSIS**

Modifies deadline by which public agency is required to respond to request for government record during period of emergency.

**CURRENT VERSION OF TEXT**

As introduced.

(Sponsorship Updated As Of: 3/19/2020)



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2 periods of emergency and amending P.L.2001, c.404.

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

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8 as follows:

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12 population of 5,000 or fewer according to the most recent federal  
13 decennial census, a board of education having a total district  
14 enrollment of 500 or fewer, or a public authority having less than  
15 \$10 million in assets, during not less than six regular business hours  
16 over not less than three business days per week or the entity's  
17 regularly-scheduled business hours, whichever is less; unless a  
18 government record is exempt from public access by: P.L.1963, c.73  
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20 statute; resolution of either or both houses of the Legislature;  
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28 for use by any government agency, including any court or law  
29 enforcement agency, in carrying out its functions, or any private  
30 person or entity acting on behalf thereof, or any private person or  
31 entity seeking to enforce payment of court-ordered child support;  
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33 New Jersey Motor Vehicle Commission as permitted by section 2 of  
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35 number contained in a record required by law to be made,  
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37 when access to the document or disclosure of that information is not  
38 otherwise prohibited by State or federal law, regulation or order or  
39 by State statute, resolution of either or both houses of the  
40 Legislature, Executive Order of the Governor, rule of court or  
41 regulation promulgated under the authority of any statute or  
42 executive order of the Governor. Except where an agency can  
43 demonstrate an emergent need, a regulation that limits access to  
44 government records shall not be retroactive in effect or applied to  
45 deny a request for access to a government record that is pending

**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 before the agency, the council or a court at the time of the adoption  
2 of the regulation.

3 b. (1) A copy or copies of a government record may be  
4 purchased by any person upon payment of the fee prescribed by law  
5 or regulation. Except as otherwise provided by law or regulation  
6 and except as provided in paragraph (2) of this subsection, the fee  
7 assessed for the duplication of a government record embodied in the  
8 form of printed matter shall be \$0.05 per letter size page or smaller,  
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10 demonstrate that its actual costs for duplication of a government  
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15 copy of the record, but shall not include the cost of labor or other  
16 overhead expenses associated with making the copy except as  
17 provided for in subsection c. of this section. Access to electronic  
18 records and non-printed materials shall be provided free of charge,  
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20 supplies such as computer discs.

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

24 c. Whenever the nature, format, manner of collation, or volume  
25 of a government record embodied in the form of printed matter to  
26 be inspected, examined, or copied pursuant to this section is such  
27 that the record cannot be reproduced by ordinary document copying  
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37 opportunity to review and object to the charge prior to it being  
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39 d. A custodian shall permit access to a government record and  
40 provide a copy thereof in the medium requested if the public agency  
41 maintains the record in that medium. If the public agency does not  
42 maintain the record in the medium requested, the custodian shall  
43 either convert the record to the medium requested or provide a copy  
44 in some other meaningful medium. If a request is for a record: (1)  
45 in a medium not routinely used by the agency; (2) not routinely  
46 developed or maintained by an agency; or (3) requiring a substantial  
47 amount of manipulation or programming of information technology,  
48 the agency may charge, in addition to the actual cost of duplication,

1 a special charge that shall be reasonable and shall be based on the  
2 cost for any extensive use of information technology, or for the  
3 labor cost of personnel providing the service, that is actually  
4 incurred by the agency or attributable to the agency for the  
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6 e. Immediate access ordinarily shall be granted to budgets,  
7 bills, vouchers, contracts, including collective negotiations  
8 agreements and individual employment contracts, and public  
9 employee salary and overtime information.

10 f. The custodian of a public agency shall adopt a form for the  
11 use of any person who requests access to a government record held  
12 or controlled by the public agency. The form shall provide space  
13 for the name, address, and phone number of the requestor and a  
14 brief description of the government record sought. The form shall  
15 include space for the custodian to indicate which record will be  
16 made available, when the record will be available, and the fees to be  
17 charged. The form shall also include the following: (1) specific  
18 directions and procedures for requesting a record; (2) a statement as  
19 to whether prepayment of fees or a deposit is required; (3) the time  
20 period within which the public agency is required by P.L.1963, c.73  
21 (C.47:1A-1 et seq.) as amended and supplemented, to make the  
22 record available; (4) a statement of the requestor's right to challenge  
23 a decision by the public agency to deny access and the procedure  
24 for filing an appeal; (5) space for the custodian to list reasons if a  
25 request is denied in whole or in part; (6) space for the requestor to  
26 sign and date the form; (7) space for the custodian to sign and date  
27 the form if the request is fulfilled or denied. The custodian may  
28 require a deposit against costs for reproducing documents sought  
29 through an anonymous request whenever the custodian anticipates  
30 that the information thus requested will cost in excess of \$5 to  
31 reproduce.

32 g. A request for access to a government record shall be in  
33 writing and hand-delivered, mailed, transmitted electronically, or  
34 otherwise conveyed to the appropriate custodian. A custodian shall  
35 promptly comply with a request to inspect, examine, copy, or  
36 provide a copy of a government record. If the custodian is unable  
37 to comply with a request for access, the custodian shall indicate the  
38 specific basis therefor on the request form and promptly return it to  
39 the requestor. The custodian shall sign and date the form and  
40 provide the requestor with a copy thereof. If the custodian of a  
41 government record asserts that part of a particular record is exempt  
42 from public access pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.)  
43 as amended and supplemented, the custodian shall delete or excise  
44 from a copy of the record that portion which the custodian asserts is  
45 exempt from access and shall promptly permit access to the  
46 remainder of the record. If the government record requested is  
47 temporarily unavailable because it is in use or in storage, the  
48 custodian shall so advise the requestor and shall make arrangements

1 to promptly make available a copy of the record. If a request for  
2 access to a government record would substantially disrupt agency  
3 operations, the custodian may deny access to the record after  
4 attempting to reach a reasonable solution with the requestor that  
5 accommodates the interests of the requestor and the agency.

6 h. Any officer or employee of a public agency who receives a  
7 request for access to a government record shall forward the request  
8 to the custodian of the record or direct the requestor to the  
9 custodian of the record.

10 i. (1) Unless a shorter time period is otherwise provided by  
11 statute, regulation, or executive order, a custodian of a government  
12 record shall grant access to a government record or deny a request  
13 for access to a government record as soon as possible, but not later  
14 than seven business days after receiving the request, provided that  
15 the record is currently available and not in storage or archived. In  
16 the event a custodian fails to respond within seven business days  
17 after receiving a request, the failure to respond shall be deemed a  
18 denial of the request, unless the requestor has elected not to provide  
19 a name, address or telephone number, or other means of contacting  
20 the requestor. If the requestor has elected not to provide a name,  
21 address, or telephone number, or other means of contacting the  
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23 requestor reappears before the custodian seeking a response to the  
24 original request. If the government record is in storage or archived,  
25 the requestor shall be so advised within seven business days after  
26 the custodian receives the request. The requestor shall be advised  
27 by the custodian when the record can be made available. If the  
28 record is not made available by that time, access shall be deemed  
29 denied.

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

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

46 k. The files maintained by the Office of the Public Defender  
47 that relate to the handling of any case shall be considered

1 confidential and shall not be open to inspection by any person  
2 unless authorized by law, court order, or the State Public Defender.  
3 (cf: P.L.2014, c.19, s.3)

4

5 2. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 This bill provides that during a state of emergency, public health  
11 emergency, or state of local disaster emergency, a custodian of a  
12 government record for a public agency will be required only to  
13 make a reasonable effort to respond to a request for a government  
14 record within seven business days, or as soon as possible thereafter,  
15 as the circumstances permit.

16 Under current law, a custodian of a government record for a  
17 public agency is required to grant access to a government record or  
18 deny a request for access to a government record as soon as  
19 possible, but not later than seven business days after receiving the  
20 request, provided that the record is currently available and not in  
21 storage or archived. Failure to respond within seven business days  
22 is deemed a denial of the request. A custodian is also required to so  
23 notify a requestor within seven business days if a government  
24 record is in storage or archived, as well as when the record may be  
25 made available. Moreover, access to certain records, such as  
26 budgets, bills, vouchers, contracts, and public employee salary  
27 information, must be granted immediately.

28 This bill modifies those deadlines in the event of a public  
29 emergency to require instead that a records custodian make a  
30 reasonable effort to respond within seven business days, as  
31 circumstances permit.

ASSEMBLY HOMELAND SECURITY AND STATE  
PREPAREDNESS COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3849**

**STATE OF NEW JERSEY**

DATED: MARCH 16, 2020

The Assembly Homeland Security and State Preparedness Committee reports favorably Assembly Bill No. 3849.

As reported by the committee, this bill provides that during a state of emergency, public health emergency, or state of local disaster emergency, a custodian of a government record for a public agency will be required only to make a reasonable effort to respond to a request for a government record within seven business days, or as soon as possible thereafter, as the circumstances permit.

Under current law, a custodian of a government record for a public agency is required to 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, provided that the record is currently available and not in storage or archived. Failure to respond within seven business days is deemed a denial of the request. A custodian is also required to so notify a requestor within seven business days if a government record is in storage or archived, as well as when the record may be made available. Moreover, access to certain records, such as budgets, bills, vouchers, contracts, and public employee salary information, must be granted immediately.

This bill modifies those deadlines in the event of a public emergency to require instead that a records custodian make a reasonable effort to respond within seven business days, as circumstances permit.

# SENATE, No. 2302

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 16, 2020

**Sponsored by:**

**Senator ANTHONY M. BUCCO**

**District 25 (Morris and Somerset)**

**Senator NILSA I. CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Senator DAWN MARIE ADDIEGO**

**District 8 (Atlantic, Burlington and Camden)**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**Senator CHRIS A. BROWN**

**District 2 (Atlantic)**

**Senator JAMES W. HOLZAPFEL**

**District 10 (Ocean)**

**Senator ROBERT W. SINGER**

**District 30 (Monmouth and Ocean)**

**Senator DECLAN J. O'SCANLON, JR.**

**District 13 (Monmouth)**

**Co-Sponsored by:**

**Senator Stack**

**SYNOPSIS**

Modifies deadline by which public agency is required to respond to request for government record during period of emergency.

**CURRENT VERSION OF TEXT**

As introduced.

(Sponsorship Updated As Of: 3/19/2020)

1 AN ACT concerning the availability of government records during  
2 periods of emergency and amending P.L.2001, c.404.

3

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

6

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

9 6. a. The custodian of a government record shall permit the  
10 record to be inspected, examined, and copied by any person during  
11 regular business hours; or in the case of a municipality having a  
12 population of 5,000 or fewer according to the most recent federal  
13 decennial census, a board of education having a total district  
14 enrollment of 500 or fewer, or a public authority having less than  
15 \$10 million in assets, during not less than six regular business hours  
16 over not less than three business days per week or the entity's  
17 regularly-scheduled business hours, whichever is less; unless a  
18 government record is exempt from public access by: P.L.1963, c.73  
19 (C.47:1A-1 et seq.) as amended and supplemented; any other  
20 statute; resolution of either or both houses of the Legislature;  
21 regulation promulgated under the authority of any statute or  
22 Executive Order of the Governor; Executive Order of the Governor;  
23 Rules of Court; any federal law; federal regulation; or federal order.  
24 Prior to allowing access to any government record, the custodian  
25 thereof shall redact from that record any information which  
26 discloses the social security number, credit card number, unlisted  
27 telephone number, or driver license number of any person; except  
28 for use by any government agency, including any court or law  
29 enforcement agency, in carrying out its functions, or any private  
30 person or entity acting on behalf thereof, or any private person or  
31 entity seeking to enforce payment of court-ordered child support;  
32 except with respect to the disclosure of driver information by the  
33 New Jersey Motor Vehicle Commission as permitted by section 2 of  
34 P.L.1997, c.188 (C.39:2-3.4); and except that a social security  
35 number contained in a record required by law to be made,  
36 maintained or kept on file by a public agency shall be disclosed  
37 when access to the document or disclosure of that information is not  
38 otherwise prohibited by State or federal law, regulation or order or  
39 by State statute, resolution of either or both houses of the  
40 Legislature, Executive Order of the Governor, rule of court or  
41 regulation promulgated under the authority of any statute or  
42 executive order of the Governor. Except where an agency can  
43 demonstrate an emergent need, a regulation that limits access to  
44 government records shall not be retroactive in effect or applied to  
45 deny a request for access to a government record that is pending

**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 before the agency, the council or a court at the time of the adoption  
2 of the regulation.

3 b. (1) A copy or copies of a government record may be  
4 purchased by any person upon payment of the fee prescribed by law  
5 or regulation. Except as otherwise provided by law or regulation  
6 and except as provided in paragraph (2) of this subsection, the fee  
7 assessed for the duplication of a government record embodied in the  
8 form of printed matter shall be \$0.05 per letter size page or smaller,  
9 and \$0.07 per legal size page or larger. If a public agency can  
10 demonstrate that its actual costs for duplication of a government  
11 record exceed the foregoing rates, the public agency shall be  
12 permitted to charge the actual cost of duplicating the record. The  
13 actual cost of duplicating the record, upon which all copy fees are  
14 based, shall be the cost of materials and supplies used to make a  
15 copy of the record, but shall not include the cost of labor or other  
16 overhead expenses associated with making the copy except as  
17 provided for in subsection c. of this section. Access to electronic  
18 records and non-printed materials shall be provided free of charge,  
19 but the public agency may charge for the actual costs of any needed  
20 supplies such as computer discs.

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

24 c. Whenever the nature, format, manner of collation, or volume  
25 of a government record embodied in the form of printed matter to  
26 be inspected, examined, or copied pursuant to this section is such  
27 that the record cannot be reproduced by ordinary document copying  
28 equipment in ordinary business size or involves an extraordinary  
29 expenditure of time and effort to accommodate the request, the  
30 public agency may charge, in addition to the actual cost of  
31 duplicating the record, a special service charge that shall be  
32 reasonable and shall be based upon the actual direct cost of  
33 providing the copy or copies; provided, however, that in the case of  
34 a municipality, rates for the duplication of particular records when  
35 the actual cost of copying exceeds the foregoing rates shall be  
36 established in advance by ordinance. The requestor shall have the  
37 opportunity to review and object to the charge prior to it being  
38 incurred.

39 d. A custodian shall permit access to a government record and  
40 provide a copy thereof in the medium requested if the public agency  
41 maintains the record in that medium. If the public agency does not  
42 maintain the record in the medium requested, the custodian shall  
43 either convert the record to the medium requested or provide a copy  
44 in some other meaningful medium. If a request is for a record: (1)  
45 in a medium not routinely used by the agency; (2) not routinely  
46 developed or maintained by an agency; or (3) requiring a substantial  
47 amount of manipulation or programming of information technology,  
48 the agency may charge, in addition to the actual cost of duplication,

1 a special charge that shall be reasonable and shall be based on the  
2 cost for any extensive use of information technology, or for the  
3 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.

6 e. Immediate access ordinarily shall be granted to budgets,  
7 bills, vouchers, contracts, including collective negotiations  
8 agreements and individual employment contracts, and public  
9 employee salary and overtime information.

10 f. The custodian of a public agency shall adopt a form for the  
11 use of any person who requests access to a government record held  
12 or controlled by the public agency. The form shall provide space  
13 for the name, address, and phone number of the requestor and a  
14 brief description of the government record sought. The form shall  
15 include space for the custodian to indicate which record will be  
16 made available, when the record will be available, and the fees to be  
17 charged. The form shall also include the following: (1) specific  
18 directions and procedures for requesting a record; (2) a statement as  
19 to whether prepayment of fees or a deposit is required; (3) the time  
20 period within which the public agency is required by P.L.1963, c.73  
21 (C.47:1A-1 et seq.) as amended and supplemented, to make the  
22 record available; (4) a statement of the requestor's right to challenge  
23 a decision by the public agency to deny access and the procedure  
24 for filing an appeal; (5) space for the custodian to list reasons if a  
25 request is denied in whole or in part; (6) space for the requestor to  
26 sign and date the form; (7) space for the custodian to sign and date  
27 the form if the request is fulfilled or denied. The custodian may  
28 require a deposit against costs for reproducing documents sought  
29 through an anonymous request whenever the custodian anticipates  
30 that the information thus requested will cost in excess of \$5 to  
31 reproduce.

32 g. A request for access to a government record shall be in  
33 writing and hand-delivered, mailed, transmitted electronically, or  
34 otherwise conveyed to the appropriate custodian. A custodian shall  
35 promptly comply with a request to inspect, examine, copy, or  
36 provide a copy of a government record. If the custodian is unable  
37 to comply with a request for access, the custodian shall indicate the  
38 specific basis therefor on the request form and promptly return it to  
39 the requestor. The custodian shall sign and date the form and  
40 provide the requestor with a copy thereof. If the custodian of a  
41 government record asserts that part of a particular record is exempt  
42 from public access pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.)  
43 as amended and supplemented, the custodian shall delete or excise  
44 from a copy of the record that portion which the custodian asserts is  
45 exempt from access and shall promptly permit access to the  
46 remainder of the record. If the government record requested is  
47 temporarily unavailable because it is in use or in storage, the  
48 custodian shall so advise the requestor and shall make arrangements

1 to promptly make available a copy of the record. If a request for  
2 access to a government record would substantially disrupt agency  
3 operations, the custodian may deny access to the record after  
4 attempting to reach a reasonable solution with the requestor that  
5 accommodates the interests of the requestor and the agency.

6 h. Any officer or employee of a public agency who receives a  
7 request for access to a government record shall forward the request  
8 to the custodian of the record or direct the requestor to the  
9 custodian of the record.

10 i. (1) Unless a shorter time period is otherwise provided by  
11 statute, regulation, or executive order, a custodian of a government  
12 record shall grant access to a government record or deny a request  
13 for access to a government record as soon as possible, but not later  
14 than seven business days after receiving the request, provided that  
15 the record is currently available and not in storage or archived. In  
16 the event a custodian fails to respond within seven business days  
17 after receiving a request, the failure to respond shall be deemed a  
18 denial of the request, unless the requestor has elected not to provide  
19 a name, address or telephone number, or other means of contacting  
20 the requestor. If the requestor has elected not to provide a name,  
21 address, or telephone number, or other means of contacting the  
22 requestor, the custodian shall not be required to respond until the  
23 requestor reappears before the custodian seeking a response to the  
24 original request. If the government record is in storage or archived,  
25 the requestor shall be so advised within seven business days after  
26 the custodian receives the request. The requestor shall be advised  
27 by the custodian when the record can be made available. If the  
28 record is not made available by that time, access shall be deemed  
29 denied.

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

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

46 k. The files maintained by the Office of the Public Defender  
47 that relate to the handling of any case shall be considered

1 confidential and shall not be open to inspection by any person  
2 unless authorized by law, court order, or the State Public Defender.  
3 (cf: P.L.2014, c.19, s.3)

4

5 2. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 This bill provides that during a state of emergency, public health  
11 emergency, or state of local disaster emergency, a custodian of a  
12 government record for a public agency will be required only to  
13 make a reasonable effort to respond to a request for a government  
14 record within seven business days, or as soon as possible thereafter,  
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16 Under current law, a custodian of a government record for a  
17 public agency is required to grant access to a government record or  
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24 record is in storage or archived, as well as when the record may be  
25 made available. Moreover, access to certain records, such as  
26 budgets, bills, vouchers, contracts, and public employee salary  
27 information, must be granted immediately.

28 This bill modifies those deadlines in the event of a public  
29 emergency to require instead that a records custodian make a  
30 reasonable effort to respond within seven business days, as  
31 circumstances permit.

# Governor Murphy Takes Action on Legislation

03/20/2020

**TRENTON** – Today, Governor Phil Murphy signed the following bills and resolutions into law:

**A-3095/S-1982 (Mazzeo/Beach, Turner)** – Provides county clerks with additional week to mail ballots for 2020 primary election; requires ballot position draw to occur one day early if statutory date falls on holiday

**A-3840/S-2281 (Lampitt, Dunn, Quijano/Ruiz, Cunningham)** – Requires school districts to provide school meals or meal vouchers to students eligible for free and reduced price school meals during school closures due to COVID-19 epidemic

**A-3843/S-2283 (McKeon, Bramnick, Chaparro/Vitale, Lagana, Pou, Bateman)** – Requires health insurance and Medicaid coverage for testing of coronavirus disease 2019 and for telemedicine and telehealth during coronavirus disease 2019 state of emergency

**A-3849/S-2302 (Johnson, Moen, Timberlake/A.M. Bucco, Cruz-Perez, Weinberg, Ruiz, Addiego, Madden, C.A. Brown, Holzapfel, Singer, O'Scanlon)** – Modifies deadline by which public agency is required to respond to request for government record during period of emergency

**A-3850/S-2294 (Murphy, DeCroce, Moen/Beach, A.M. Bucco, Weinberg, Cruz-Perez, Ruiz, Addiego, Madden, Holzapfel, Singer, O'Scanlon)** – Allows public bodies to conduct meetings, and provide notice, by electronic means during periods of emergency

**A-3851/S-2295 (Schaer, Scharfenberger, Reynolds-Jackson/A.M. Bucco, Gopal, Cruz-Perez, Madden, Ruiz, Scutari, Bateman, C.A. Brown, Holzapfel, Singer, O'Scanlon, Oroho)** – Permits extension of deadlines for adoption of county and municipal budgets under certain circumstances

**A-3854/S-2286 (Conaway, Munoz, Benson/Vitale, Gill, Cruz-Perez, Ruiz, Addiego, Greenstein, T. Kean, C.A. Brown, Holzapfel, Singer, O'Scanlon)** – Authorizes all licensed health care facilities and laboratories to collect specimens to test for coronavirus disease 2019 (COVID-19); allows waiver of staffing ratio requirements

**A-3855/S-2287 (Mosquera, Stanfield, Vainieri Huttle/T. Kean, Codey, Cruz-Perez, Ruiz, Addiego, Pennacchio, C.A. Brown, Holzapfel, Singer, O'Scanlon)** – Requires food access information be displayed on websites of 2-1-1 system and executive branch departments during public health emergencies to the extent practicable

**A-3861/S-2290 (Karabinchak, Johnson, Greenwald/Diegnan, Ruiz, Testa, C.A. Brown, Holzapfel, Singer)** – Permits corporations to hold shareholders' meetings in part or solely by means of remote communication during state of emergency

**A-3865/S-2291 (Chaparro, Reynolds-Jackson, Verrelli/Addiego, Bateman, Pou, Ruiz, C.A. Brown, Holzapfel, Singer, Turner)** – Limits return of items purchased from retail food stores under certain circumstances

**AJR-158/SJR-77 (DeAngelo, DePhillips/Cruz-Perez, Pou, Ruiz, Greenstein, T. Kean, C.A. Brown, Holzapfel, Singer, O'Scanlon)** – Urges FCC to take temporary measures to secure broadband access for those affected by COVID-19