

# ASSEMBLY, No. 2177

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JANUARY 16, 2014

**Sponsored by:**

**Assemblyman RONALD S. DANCER**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**SYNOPSIS**

Requires public release of photographs of arrestees under State's open public records law.

**CURRENT VERSION OF TEXT**

As introduced.



A2177 DANCER

2

1 AN ACT requiring the public release of photographs of arrestees and  
2 amending P.L.1963, c.73.

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.1963, c.73 (C.47:1A-3) is amended to read  
8 as follows:

9 3. a. Notwithstanding the provisions of P.L.1963, c.73  
10 (C.47:1A-1 et seq.) as amended and supplemented, where it shall  
11 appear that the record or records which are sought to be inspected,  
12 copied, or examined shall pertain to an investigation in progress by  
13 any public agency, the right of access provided for in P.L.1963,  
14 c.73 (C.47:1A-1 et seq.) as amended and supplemented may be  
15 denied if the inspection, copying or examination of such record or  
16 records shall be inimical to the public interest; provided, however,  
17 that this provision shall not be construed to allow any public agency  
18 to prohibit access to a record of that agency that was open for  
19 public inspection, examination, or copying before the investigation  
20 commenced. Whenever a public agency, during the course of an  
21 investigation, obtains from another public agency a government  
22 record that was open for public inspection, examination or copying  
23 before the investigation commenced, the investigating agency shall  
24 provide the other agency with sufficient access to the record to  
25 allow the other agency to comply with requests made pursuant to  
26 P.L.1963, c.73 (C.47:1A-1 et seq.).

27 b. Notwithstanding the provisions of P.L.1963, c.73 (C.47:1A-  
28 1 et seq.), as amended and supplemented, the following information  
29 and records concerning a criminal investigation shall be available to  
30 the public within 24 hours or as soon as practicable, of a request for  
31 such information or record:

32 (1) where a crime has been reported but no arrest yet made,  
33 information as to the type of crime, time, location and type of  
34 weapon, if any;

35 if an arrest has been made, information as to the name, address  
36 and age of any victims unless there has not been sufficient  
37 opportunity for notification of next of kin of any victims of injury  
38 and/or death to any such victim or where the release of the names of  
39 any victim would be contrary to existing law or court rule. In  
40 deciding on the release of information as to the identity of a victim,  
41 the safety of the victim and the victim's family, and the integrity of  
42 any ongoing investigation, shall be considered;

43 if an arrest has been made, information as to the defendant's  
44 name, age, residence, occupation, marital status and similar  
45 background information and, the identity of the complaining party

**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 unless the release of such information is contrary to existing law or  
2 court rule;  
3 information as to the text of any charges such as the complaint,  
4 accusation and indictment unless sealed by the court or unless the  
5 release of such information is contrary to existing law or court rule;  
6 information as to the identity of the investigating and arresting  
7 personnel and agency and the length of the investigation;  
8 information of the circumstances immediately surrounding the  
9 arrest, including but not limited to the time and place of the arrest,  
10 resistance, if any, pursuit, possession and nature and use of  
11 weapons and ammunition by the suspect and by the police; and  
12 information as to circumstances surrounding bail, whether it was  
13 posted and the amount thereof.

14 Notwithstanding any other provision of this **subsection**  
15 paragraph, where it shall appear that the information requested or to  
16 be examined will jeopardize the safety of any person or jeopardize  
17 any investigation in progress or may be otherwise inappropriate to  
18 release, such information may be withheld. This exception shall be  
19 narrowly construed to prevent disclosure of information that would  
20 be harmful to a bona fide law enforcement purpose or the public  
21 safety. Whenever a law enforcement official determines that it is  
22 necessary to withhold information, the official shall issue a brief  
23 statement explaining the decision.

24 (2) if an arrest has been made, the booking photographs taken  
25 by or on behalf of a law enforcement agency of a defendant upon  
26 being taken into custody.  
27 (cf: P.L.2001, c.404, s.5)

28  
29 2. This act shall take effect immediately.

30  
31  
32  
33

STATEMENT

34 This bill would clarify that the booking photographs taken of a  
35 defendant after an arrest, commonly referred to as mugshots, are to  
36 be available to the public under the State's open public records law.  
37 Current law does not specifically address the availability of  
38 mugshots to the public. Instead, decisions on whether to release  
39 mugshots are left to the discretion of investigative agencies,  
40 allowing inconsistent policies on the release of these records to be  
41 applied throughout the State. This bill would provide a uniform  
42 policy that all mugshots are to be made available to the public.