

ASSEMBLY, No. 2373

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED FEBRUARY 6, 2014

Sponsored by:

Assemblyman GREGORY P. MCGUCKIN

District 10 (Ocean)

Assemblyman DAVID W. WOLFE

District 10 (Ocean)

SYNOPSIS

Omits State Police detectives from Open Public Records Act.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning sealing State Police detectives personal
2 information and amending P.L.1995, c.23 (C.47:1A-1.1 et seq.).
3

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

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

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

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

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

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

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

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

44 any memorandum, correspondence, notes, report or other
45 communication prepared by, or for, the specific use of a member of

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 the Legislature in the course of the member's official duties, except
2 that this provision shall not apply to an otherwise publicly-
3 accessible report which is required by law to be submitted to the
4 Legislature or its members;

5 any copy, reproduction or facsimile of any photograph, negative
6 or print, including instant photographs and videotapes of the body,
7 or any portion of the body, of a deceased person, taken by or for the
8 medical examiner at the scene of death or in the course of a post
9 mortem examination or autopsy made by or caused to be made by
10 the medical examiner except:

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

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

18 for use in the field of forensic pathology or for use in medical or
19 scientific education or research, or

20 for use by any law enforcement agency in this State or any other
21 state or federal law enforcement agency;

22 criminal investigatory records;

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

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

29 personal identifying information received by the Division of Fish
30 and Wildlife in the Department of Environmental Protection in
31 connection with the issuance of any license authorizing hunting
32 with a firearm. For the purposes of this paragraph, personal
33 identifying information shall include, but not be limited to, identity,
34 name, address, social security number, telephone number, fax
35 number, driver's license number, email address, or social media
36 address of any applicant or licensee; trade secrets and
37 proprietary commercial or financial information obtained from any
38 source. For the purposes of this paragraph, trade secrets shall
39 include data processing software obtained by a public body under a
40 licensing agreement which prohibits its disclosure;

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

46 administrative or technical information regarding computer
47 hardware, software and networks which, if disclosed, would
48 jeopardize computer security;

1 emergency or security information or procedures for any
2 buildings or facility which, if disclosed, would jeopardize security
3 of the building or facility or persons therein;
4 security measures and surveillance techniques which, if
5 disclosed, would create a risk to the safety of persons, property,
6 electronic data or software;
7 information which, if disclosed, would give an advantage to
8 competitors or bidders;
9 information generated by or on behalf of public employers or
10 public employees in connection with any sexual harassment
11 complaint filed with a public employer or with any grievance filed
12 by or against an individual or in connection with collective
13 negotiations, including documents and statements of strategy or
14 negotiating position;
15 information which is a communication between a public agency
16 and its insurance carrier, administrative service organization or risk
17 management office;
18 information which is to be kept confidential pursuant to court
19 order;
20 any copy of form DD-214, or that form, issued by the United
21 States Government, or any other certificate of honorable discharge,
22 or copy thereof, from active service or the reserves of a branch of
23 the Armed Forces of the United States, or from service in the
24 organized militia of the State, that has been filed by an individual
25 with a public agency, except that a veteran or the veteran's spouse
26 or surviving spouse shall have access to the veteran's own records;
27 and
28 that portion of any document which discloses the social security
29 number, credit card number, unlisted telephone number or driver
30 license number of any person; except for use by any government
31 agency, including any court or law enforcement agency, in carrying
32 out its functions, or any private person or entity acting on behalf
33 thereof, or any private person or entity seeking to enforce payment
34 of court-ordered child support; except with respect to the disclosure
35 of driver information by the New Jersey Motor Vehicle
36 Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-
37 3.4); and except that a social security number contained in a record
38 required by law to be made, maintained or kept on file by a public
39 agency shall be disclosed when access to the document or
40 disclosure of that information is not otherwise prohibited by State
41 or federal law, regulation or order or by State statute, resolution of
42 either or both houses of the Legislature, Executive Order of the
43 Governor, rule of court or regulation promulgated under the
44 authority of any statute or executive order of the Governor.
45 A government record shall not include, with regard to any public
46 institution of higher education, the following information which is
47 deemed to be privileged and confidential:

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

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

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

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

24 information contained on individual admission applications; and
25 information concerning student records or grievance or
26 disciplinary proceedings against a student to the extent disclosure
27 would reveal the identity of the student.

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

44 information on a State Police detectives such as an individual's
45 name, title, position, salary or any other identification that would
46 reveal the identity of a detective.

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

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

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

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

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

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

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

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

33 "Victims' rights agency" means a public agency, or part thereof,
34 the primary responsibility of which is providing services, including
35 but not limited to food, shelter, or clothing, medical, psychiatric,
36 psychological or legal services or referrals, information and referral
37 services, counseling and support services, or financial services to
38 victims of crimes, including victims of sexual assault, domestic
39 violence, violent crime, child endangerment, child abuse or child
40 neglect, and the Victims of Crime Compensation Board, established
41 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.).

42 (cf: P.L.2013, c.116)

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44 2. This act shall take effect immediately.

1 STATEMENT

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3 This bill amends the definitions of the Open Public Records Act
4 (OPRA) to include State Police detective information to the list of
5 OPRA exclusions.

6 State Police detectives must work discreetly to apprehend
7 criminals. Information that publicizes personal details of a
8 detective such as name, place of work, title, salary, etc. places this
9 person and their family in danger.

10 The State of New Jersey has the obligation to protect those who
11 are protecting the citizens of this State.