

**ASSEMBLY, No. 4142**

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**STATE OF NEW JERSEY**

**216th LEGISLATURE**

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INTRODUCED FEBRUARY 5, 2015

**Sponsored by:**

**Assemblyman JOSEPH A. LAGANA**

**District 38 (Bergen and Passaic)**

**Assemblywoman LINDA STENDER**

**District 22 (Middlesex, Somerset and Union)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**SYNOPSIS**

Requires public agency responding to record request to redact information contained in accident report, except for drivers' names and diagram of accident.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning public access to accident reports and amending  
2 R.S.39:4-131 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. R.S.39:4-131 is amended to read as follows:

8 39:4-131. The commission shall prepare and supply to police  
9 departments and other suitable agencies, forms for accident reports  
10 calling for sufficiently detailed information with reference to a  
11 motor vehicle accident, including the cause, the conditions then  
12 existing, the persons and vehicles involved, the compliance with  
13 P.L.1984, c.179 (C.39:3-76.2e et seq.) by the operators and  
14 passengers of the vehicles involved in the accident, whether the  
15 operator of the vehicle was using a cellular telephone when the  
16 accident occurred, and such other information as the chief  
17 administrator may require.

18 Every law enforcement officer who investigates a vehicle  
19 accident of which report must be made as required in this Title, or  
20 who otherwise prepares a written report as a result of an accident or  
21 thereafter by interviewing the participants or witnesses, shall  
22 forward a written report of such accident to the commission, on  
23 forms furnished by it, within five days after his investigation of the  
24 accident.

25 **[Such]** Except as provided in section 1 of P.L.1995, c.23  
26 (C.47:1A-1.1) and this section, such written reports required to be  
27 forwarded by law enforcement officers and the information  
28 contained therein shall not be privileged or held confidential.

29 **[Every]** Subject to the limitations set forth in section 1 of P.L.1995,  
30 c.23 (C.47:1A-1.1) and this section, every citizen of this State shall  
31 have the right, during regular business hours and under supervision,  
32 to inspect and copy such reports and shall also have the right in  
33 person to purchase copies of the reports at the same fee established  
34 by section 6 of P.L.2001, c.404 (C.47:1A-5). Any report made  
35 available for inspection and copying by the citizens of this State  
36 shall be redacted by the custodian of the record to display only the  
37 names of the drivers and a diagram of the accident. A report prepared  
38 in response to an accident in which a government issued vehicle was  
39 involved shall not be redacted and shall be available for inspection and  
40 copying in its entirety. If copies of reports are requested other than  
41 in person, an additional fee of up to \$5.00 may be added to cover  
42 the administrative costs of the report. Upon request, a police  
43 department shall send an accident report to a person through the  
44 mail or via fax as defined in section 2 of P.L.1976, c.23 (C.19:59-  
45 2). The police department may require the person requesting the

**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 report to provide a completed request form and the appropriate fee  
2 prior to faxing or mailing the report. The police department shall  
3 provide the person requesting the report with the option of  
4 submitting the form and providing the appropriate fee either in  
5 person, through the mail, or via fax as defined in section 2 of  
6 P.L.1976, c.23 (C.19:59-2).

7 **【The provisions of any other law or regulation to the contrary**  
8 **notwithstanding, reports】** Reports obtained pursuant to this act shall  
9 not be subject to confidentiality requirements except as provided by  
10 section 28 of P.L.1960, c.52 (C.2A:84A-28), section 1 of P.L.1995,  
11 c.23 (C.47:1A-1.1), and this section.

12 When a motor vehicle accident results in the death or  
13 incapacitation of the driver or any passenger, the law enforcement  
14 officer responsible for notifying the next of kin that their relative is  
15 deceased or incapacitated, also shall inform the relative, in writing,  
16 how to obtain a copy of the accident report required by this section  
17 and the name, address, and telephone number of the person storing  
18 the motor vehicle pursuant to section 1 of P.L.1964, c.81  
19 (C.39:10A-1).

20 (cf: P.L.2010, c.75, s.2)

21  
22 2. Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended to read  
23 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  
46 authority of the State or of any political subdivision thereof,  
47 including subordinate boards thereof. The terms shall not include

1 inter-agency or intra-agency advisory, consultative, or deliberative  
2 material.

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

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

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

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

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

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

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

33 for use by any law enforcement agency in this State or any other  
34 state or federal law enforcement agency;

35 criminal investigatory records;

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

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

43 information contained in an accident report prepared pursuant to  
44 R.S.39:4-131, except for the drivers' names and a diagram of the  
45 accident, which shall be made available to the public upon request.  
46 The custodian for a public agency that receives a request for an  
47 accident report pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) shall  
48 issue a redacted accident report, displaying only the names of the

1 drivers and a diagram of the accident. The provisions of this  
2 paragraph shall not apply to an accident report prepared in response to  
3 an accident in which a government issued vehicle was involved;

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

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

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

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

25 administrative or technical information regarding computer  
26 hardware, software and networks which, if disclosed, would  
27 jeopardize computer security;

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

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

34 information which, if disclosed, would give an advantage to  
35 competitors or bidders;

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

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

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

47 any copy of form DD-214, or that form, issued by the United  
48 States Government, or any other certificate of honorable discharge,

1 or copy thereof, from active service or the reserves of a branch of  
2 the Armed Forces of the United States, or from service in the  
3 organized militia of the State, that has been filed by an individual  
4 with a public agency, except that a veteran or the veteran's spouse  
5 or surviving spouse shall have access to the veteran's own records;  
6 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 "Victims' rights agency" means a public agency, or part thereof,  
11 the primary responsibility of which is providing services, including  
12 but not limited to food, shelter, or clothing, medical, psychiatric,  
13 psychological or legal services or referrals, information and referral  
14 services, counseling and support services, or financial services to  
15 victims of crimes, including victims of sexual assault, domestic  
16 violence, violent crime, child endangerment, child abuse or child  
17 neglect, and the Victims of Crime Compensation Board, established  
18 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as  
19 the Victims of Crime Compensation Office pursuant to P.L.2007,  
20 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.  
21 (cf: P.L.2014, c.19, s.2)

22  
23 3. This act shall take effect immediately.  
24  
25

## 26 STATEMENT

27  
28 This bill would require the government records custodian for a  
29 public agency, responding to a public request for an accident report,  
30 to redact certain information contained in the report before  
31 producing it. All information in the accident report must be  
32 redacted, except for the drivers' names and a diagram of the  
33 accident. The agency does not have to redact an accident report  
34 involving a government issued vehicle. If a member of the public  
35 requests an accident report prepared in response to an accident in  
36 which a government issued vehicle was involved, then he or she has  
37 the right to inspect and copy the entire report, without redactions. This  
38 bill applies to requests made for reports pursuant to both the Open  
39 Public Records Act and Title 39 of the Revised Statutes.

40 This bill is designed to prevent criminals from requesting accident  
41 reports to commit identity theft, which often involves acquiring key  
42 pieces of someone's identifying information, such as their address,  
43 date of birth, drivers' license number, and social security number, in  
44 order to impersonate them. This bill ensures that accident reports  
45 requested through the State's Open Public Records Act and Title 39  
46 of the Revised Statutes do not contain key identifying information  
47 used by identity thieves to perpetrate their crimes.