

[Second Reprint]

SENATE, No. 107

STATE OF NEW JERSEY
218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

SYNOPSIS

Makes certain access changes to open public records act; requires inclusion of certain State financial information on open data website; creates program for development of local websites; makes appropriation.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 17, 2019, with amendments.



(Sponsorship Updated As Of: 11/8/2019)

1 AN ACT concerning access to certain government records and
2 establishment of a program for developing public websites,
3 amending and supplementing P.L.1963, c.73, supplementing
4 Title 52 of the Revised Statutes ²and chapter 14 of Title 40A of
5 the New Jersey Statutes², amending P.L.1995, c.23 and
6 P.L.2001, c.404, and making an appropriation.
7

8 **BE IT ENACTED** by the Senate and General Assembly of the State
9 of New Jersey:

10
11 1. (New section) This act, P.L.1963, c.73 (C.47:1A-1 et seq.),
12 shall be known and may be cited as the "Martin O'Shea Open
13 Public Records and Transparency Act."
14

15 2. Section 1 of P.L.1963, c.73 (C.47:1A-1) is amended to read
16 as follows:

17 1. The Legislature finds and declares it to be the public policy
18 of this State that:

19 government records shall be readily accessible for inspection,
20 copying, ²electronic transmission,² or examination by the ²[citizens
21 of this State] public², with certain exceptions, for the protection of
22 the public interest, and any limitations on the right of access
23 accorded by P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and
24 supplemented, shall be construed in favor of the public's right of
25 access;

26 all government records shall be subject to public access unless
27 exempt from such access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as
28 amended and supplemented; any other statute; resolution of either
29 or both houses of the Legislature; regulation promulgated under the
30 authority of any statute or Executive Order of the Governor;
31 Executive Order of the Governor; Rules of Court; any federal law,
32 federal regulation, or federal order;

33 a public agency has a responsibility and an obligation to
34 safeguard from public access a [citizen's] person's personal
35 information with which it has been entrusted when disclosure
36 thereof would violate the [citizen's] person's reasonable
37 expectation of privacy; and nothing contained in P.L.1963, c.73
38 (C.47:1A-1 et seq.), as amended and supplemented, shall be
39 construed as affecting in any way the common law right of access to
40 any record, including but not limited to criminal investigatory
41 records of a law enforcement agency.

42 (cf: P.L.2001, c.404, s.1)
43

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

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SSG committee amendments adopted June 14, 2018.

²Senate SBA committee amendments adopted June 17, 2019.

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

3 "Biotechnology" means any technique that uses living
4 organisms, or parts of living organisms, to make or modify
5 products, to improve plants or animals, or to develop micro-
6 organisms for specific uses; including the industrial use of
7 recombinant DNA, cell fusion, and novel bioprocessing techniques.

8 "Commercial purpose" means the direct or indirect use of any
9 part of a government record for sale, resale, solicitation, rent or
10 lease of a service, or any use by which the user expects a profit
11 either through commission, salary, or fee. "Commercial purpose"
12 shall not include using, distributing, gathering, procuring,
13 transmitting, compiling, editing, disseminating, or publishing of
14 information or data by the news media, or any parent, subsidiary, or
15 affiliate of any news media, as defined by section 2 of P.L.1977,
16 c.253 (C.2A:84A-21a), or by any news, journalistic, educational,
17 scientific, scholarly, or governmental organization.

18 "Custodian of a government record" or "custodian" means in the
19 case of a municipality, the municipal clerk and in the case of any
20 other public agency, the officer officially designated by formal or
21 written action of that agency's director or governing body, as the
22 case may be. In the case of a volunteer fire company or a volunteer
23 fire department established pursuant to N.J.S.40A:14-68, a
24 volunteer fire company or department may enter into a contract with
25 the governing body of the municipality it serves wherein the
26 municipal clerk shall serve as the custodian for government record
27 request purposes.

28 "Government record" or "record" means any paper, written,
29 electronic, or printed book, document, drawing, map, plan,
30 photograph, microfilm, data processed or image processed
31 document, information stored or maintained electronically or by
32 **【sound-recording】** video or audio recording or in a similar device,
33 or any copy thereof, that has been made, maintained or kept on file,
34 or is required by law to be made, maintained or kept on file, in the
35 course of his or its official business by any **【officer, commission,**
36 **agency or authority of the State or of any political subdivision**
37 **thereof, including subordinate boards thereof】** public employee or
38 public agency, or that has been received in the course of his or its
39 official business by any such **【officer, commission, agency, or**
40 **authority of the State or of any political subdivision thereof,**
41 **including subordinate boards thereof】** public employee or public
42 agency. Any video or audio recordings made of those portions of
43 meetings from which the public was not excluded pursuant to
44 subsection b. of section 7 of P.L.1975, c.231 (C.10:4-12), including
45 emergency meetings held pursuant to subsection b. of section 4 of
46 P.L.1975, c.231 (C.10:4-9), shall be available in unedited form.

1 The terms shall not include inter-agency or intra-agency advisory,
2 consultative, or deliberative material.

3 “Advisory, consultative or deliberative material” means material
4 that is used and relied upon during the consultative process prior to
5 the completion of a competitive application, the award of any
6 contract, or the adoption of an ordinance, rule, regulation, or policy
7 by any public agency and that reflects personal opinions,
8 recommendations, and deliberations comprising part of a process by
9 which public agency decisions and policies are formulated, rather
10 than factual or statistical data, information or the official policy of
11 that body, and the release of which would be injurious to the
12 consultative function of government.

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

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

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

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

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

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

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

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

45 criminal investigatory records;

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

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

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

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

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

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

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

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

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

36 information, including location, of private alarm systems and
37 surveillance cameras;

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

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

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

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

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

10 any copy of an oath of allegiance, oath of office or any
11 affirmation taken upon assuming the duties of any public office, or
12 that oath or affirmation, taken by a current or former officer or
13 employee in any public office or position in this State or in any
14 county or municipality of this State, including members of the
15 Legislative Branch, Executive Branch, Judicial Branch, and all law
16 enforcement entities, except that the full name, title, and oath date
17 of that person contained therein shall not be deemed confidential;

18 **[and]**

19 that portion of any document which discloses the social security
20 number, credit card number, personal debit card number, personal
21 bank account information, unlisted telephone number or driver
22 license number of any person; except for use by any government
23 agency, including any court or law enforcement agency, in carrying
24 out its functions, or any private person or entity acting on behalf
25 thereof, or any private person or entity seeking to enforce payment
26 of court-ordered child support; except with respect to the disclosure
27 of driver information by the New Jersey Motor Vehicle
28 Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-
29 3.4); and except that a social security number contained in a record
30 required by law to be made, maintained or kept on file by a public
31 agency shall be disclosed when access to the document or
32 disclosure of that information is not otherwise prohibited by State
33 or federal law, regulation or order or by State statute, resolution of
34 either or both houses of the Legislature, Executive Order of the
35 Governor, rule of court or regulation promulgated under the
36 authority of any statute or executive order of the Governor;

37 cell phone numbers, unless the cell phone number is listed as a
38 home telephone number;

39 electronic-mail addresses provided to the public agency as
40 contact information for the purpose of receiving official public
41 notifications; and

42 electronic-mail addresses provided to the public agency as
43 contact information on any official government form.

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

47 pedagogical, scholarly and/or academic research records and/or
48 the specific details of any research project conducted under the

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

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

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

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

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

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

42 The term "government record" shall include allowances sold at
43 auction pursuant to P.L.2007, c.340 (C.26:2C-45 et seq.) or any
44 similar greenhouse gas initiative, together with the auction clearing
45 price for each allowance, the identity of the winning bidder, and the
46 quantity of allowances obtained by each bidder, and of which none
47 shall be considered to be a trade secret within the scope of this act,
48 P.L.1963, c.73 (C.47:1A-1 et seq.). The term shall also include

1 records containing the names of reviewers of grants, donations,
2 gifts or applications made to a public agency including the names of
3 reviewers of charter school applications, which names shall not be
4 redacted, and EZ pass records, or substantially similar records, for
5 vehicles owned by the State and any other public entities, other than
6 those reflecting law enforcement usage notwithstanding any other
7 law to the contrary.

8 "Public agency" or "agency" means any of the principal
9 departments in the Executive Branch of State Government, and any
10 division, agency, authority, board, bureau, office, commission or
11 other instrumentality within or created by such department; the
12 Legislature of the State and any office, board, bureau or
13 commission within or created by the Legislative Branch; and any
14 independent State authority, commission, instrumentality or agency.
15 The terms shall also mean any political subdivision of the State or
16 combination of political subdivisions, and any division, board,
17 bureau, office, commission or other instrumentality within or
18 created by a political subdivision of the State or combination of
19 political subdivisions, and any independent authority, commission,
20 instrumentality or agency created by a political subdivision or
21 combination of political subdivisions. The term shall also include a
22 school district, special district, an educational information resource
23 center established pursuant to P.L.1983, c.186 (C.18A:6-95.1 et
24 seq.), or charter school, quasi-governmental agency, or public
25 employee. The term shall also mean and include, by way of
26 example but not limitation, the New Jersey State League of
27 Municipalities, the New Jersey Association of Counties, the New
28 Jersey School Boards Association, and the New Jersey State
29 Interscholastic Athletic Association, and a substantially similar
30 successor organization or association, a joint insurance group or
31 fund for political subdivisions of this State, and bi-State agencies.

32 "Quasi-governmental agency" means any association,
33 commission, agency, authority, organization, public-private entity,
34 or any other entity, in which one or more public agencies exercise
35 substantial control, or as determined by the Government Records
36 Council or a court of law, by considering factors including but not
37 limited to: whether a public agency exercises control over the quasi-
38 government agency or the public agency maintains the ability to
39 review, approve, or reject the quasi-governmental agency's
40 proposals or plans, holds a beneficial interest in the quasi-
41 governmental agency's assets, is the primary source of funding of,
42 or is indebted to, or is a creditor of, or guarantor of the debts of, the
43 quasi-governmental agency. The term shall not include any entity
44 involving the Legislature or any organization organized under
45 paragraph (3) of subsection c. of section 501 of the federal Internal
46 Revenue Code (26 U.S.C.s.501) that was not created by, or with the
47 approval of, a public agency primarily for the purpose of assisting
48 that public agency or any labor organization or any contractor

1 providing goods or services to a public agency except as otherwise
2 provided by this subsection. However, nothing contained herein
3 shall affect the application of P.L.1963, c.73 (C.47:1A-1 et seq.) to
4 entities that otherwise fall within the definition of "public agency."

5 "Public employee" means any person who occupies any office,
6 position or employment in a public agency, as defined in this
7 section, but only to the extent that he or she acts in an official
8 capacity. This term shall also include, but shall not be limited to,
9 an elected and appointed person, an intern and volunteer employee.

10 "Law enforcement agency" means a public agency, or part
11 thereof, determined by the Attorney General to have law
12 enforcement responsibilities.

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

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

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

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

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

30 "Victims' rights agency" means a public agency, or part thereof,
31 the primary responsibility of which is providing services, including
32 but not limited to food, shelter, or clothing, medical, psychiatric,
33 psychological or legal services or referrals, information and referral
34 services, counseling and support services, or financial services to
35 victims of crimes, including victims of sexual assault, domestic
36 violence, violent crime, child endangerment, child abuse or child
37 neglect, and the Victims of Crime Compensation Board, established
38 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as
39 the Victims of Crime Compensation Office pursuant to P.L.2007,
40 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.

41 (cf: P.L.2015, c.59, s.1)¹

42

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

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

47 "Biotechnology" means any technique that uses living
48 organisms, or parts of living organisms, to make or modify

1 products, to improve plants or animals, or to develop micro-
2 organisms for specific uses; including the industrial use of
3 recombinant DNA, cell fusion, and novel bioprocessing techniques.

4 “Commercial purpose” means the direct or indirect use of any
5 part of a government record for sale, resale, ²[solicitation,]² rent or
6 lease of a service, or any use by which the user expects a profit
7 either through commission, salary, or fee. “Commercial purpose”
8 shall not include using, distributing, gathering, procuring,
9 transmitting, compiling, editing, disseminating, or publishing of
10 information or data by the news media, or any parent, subsidiary, or
11 affiliate of any news media, as defined by section 2 of P.L.1977,
12 c.253 (C.2A:84A-21a), or by any news, journalistic, educational,
13 scientific, scholarly, or governmental organization.

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

19 ²“Deputy custodian” means, in the case of a municipality, the
20 officer or employee, or officers or employees, of that municipality
21 designated or appointed by the governing body thereof who acts on
22 the custodian’s behalf for any request for access to a government
23 record in the custody of the deputy custodian’s particular office or
24 unit.²

25 "Government record" or "record" means any paper, written,
26 electronic, or printed book, document, drawing, map, plan,
27 photograph, microfilm, data processed or image processed
28 document, information stored or maintained electronically or by
29 **[sound-recording]** video or audio recording or in a similar device,
30 or any copy thereof, that has been made, maintained or kept on file,
31 or is required by law to be made, maintained or kept on file, ²[in
32 the course of his or its official business] or that has been received,²
33 by any **[officer, commission, agency or authority of the State or of**
34 **any political subdivision thereof, including subordinate boards**
35 **thereof]** public employee or public agency ²**[, or that has been**
36 **received]**² in the course of ²**[his or its]** that employee’s or
37 agency’s² official business ²**[by any such]**² **[officer, commission,**
38 **agency, or authority of the State or of any political subdivision**
39 **thereof, including subordinate boards thereof]** ²**[public employee or**
40 **public agency]**² . Any video or audio recordings made of those
41 portions of meetings from which the public was not excluded
42 pursuant to subsection b. of section 7 of P.L.1975, c.231 (C.10:4-
43 12), including emergency meetings held pursuant to subsection b. of
44 section 4 of P.L.1975, c.231 (C.10:4-9), shall be available in
45 unedited form. The terms shall not include inter-agency or intra-
46 agency advisory, consultative, or deliberative material.

1 “Advisory, consultative or deliberative material” means material
2 that is used and relied upon during the consultative process prior to
3 the completion of a competitive application, the award of any
4 contract, or the adoption of an ordinance, rule, regulation, or policy
5 by any public agency and that reflects personal opinions,
6 recommendations, and deliberations comprising part of a process by
7 which public agency decisions and policies are formulated, rather
8 than factual or statistical data, information or the official policy of
9 that body, and the release of which would be injurious to the
10 consultative function of government.

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

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

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

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

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

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

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

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

43 criminal investigatory records;

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

46 any written request by a crime victim for a record to which the
47 victim is entitled to access as provided in this section, including,
48 but not limited to, any law enforcement agency report, domestic

1 violence offense report, and temporary or permanent restraining
2 order;

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

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

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

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

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

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

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

33 information, including location, of private ²and public² alarm
34 systems and surveillance cameras;

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

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

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

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

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

8 any copy of an oath of allegiance, oath of office or any
9 affirmation taken upon assuming the duties of any public office, or
10 that oath or affirmation, taken by a current or former officer or
11 employee in any public office or position in this State or in any
12 county or municipality of this State, including members of the
13 Legislative Branch, Executive Branch, Judicial Branch, and all law
14 enforcement entities, except that the full name, title, and oath date
15 of that person contained therein shall not be deemed confidential;

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

35 **【A】** a list of persons identifying themselves as being in need of
36 special assistance in the event of an emergency maintained by a
37 municipality for public safety purposes pursuant to section 1 of
38 P.L.2017, c.266 (C.40:48-2.67); **【and**

39 **A】** a list of persons identifying themselves as being in need of
40 special assistance in the event of an emergency maintained by a
41 county for public safety purposes pursuant to section 6 of P.L.2011,
42 c.178 (C.App.A:9-43.13);

43 cell phone numbers, unless the cell phone number is listed as a
44 home telephone number;

45 electronic-mail addresses provided to the public agency as
46 contact information for the purpose of receiving official public
47 notifications;

1 electronic-mail addresses provided to the public agency as
2 contact information on any official government form; and

3 that portion of any document that requires and would disclose
4 personal identifying information of persons under the age of 18
5 years, except with respect to the disclosure of driver information by
6 the New Jersey Motor Vehicle Commission as permitted by section
7 2 of P.L.1997, c.188 (C.39:2-3.4) or the disclosure of driver
8 information to any insurer or insurance support organization, or a
9 self-insured entity, or its agents, employees, or contractors, for use
10 in connection with claims investigation activities, antifraud
11 activities, rating or underwriting.

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

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

26 test questions, scoring keys and other examination data
27 pertaining to the administration of an examination for employment
28 or academic examination;

29 records of pursuit of charitable contributions or records
30 containing the identity of a donor of a gift if the donor requires non-
31 disclosure of the donor's identity as a condition of making the gift
32 provided that the donor has not received any benefits of or from the
33 institution of higher education in connection with such gift other
34 than a request for memorialization or dedication;

35 valuable or rare collections of books and/or documents obtained
36 by gift, grant, bequest or devise conditioned upon limited public
37 access;

38 information contained on individual admission applications; and
39 information concerning student records or grievance or
40 disciplinary proceedings against a student to the extent disclosure
41 would reveal the identity of the student.

42 "Personal firearms record" means any information contained in a
43 background investigation conducted by the chief of police, the
44 county prosecutor, or the Superintendent of State Police, of any
45 applicant for a permit to purchase a handgun, firearms identification
46 card license, or firearms registration; any application for a permit to
47 purchase a handgun, firearms identification card license, or firearms
48 registration; any document reflecting the issuance or denial of a

1 permit to purchase a handgun, firearms identification card license,
2 or firearms registration; and any permit to purchase a handgun,
3 firearms identification card license, or any firearms license,
4 certification, certificate, form of register, or registration statement.
5 For the purposes of this paragraph, information contained in a
6 background investigation shall include, but not be limited to,
7 identity, name, address, social security number, phone number, fax
8 number, driver's license number, email address, social media
9 address of any applicant, licensee, registrant or permit holder.

10 The term "government record" shall include allowances sold at
11 auction pursuant to P.L.2007, c.340 (C.26:2C-45 et seq.) or any
12 similar greenhouse gas initiative, together with the auction clearing
13 price for each allowance, the identity of the winning bidder, and the
14 quantity of allowances obtained by each bidder, and of which none
15 shall be considered to be a trade secret within the scope of this act,
16 P.L.1963, c.73 (C.47:1A-1 et seq.). The term shall also include
17 records containing the names of reviewers of grants, donations,
18 gifts or applications made to a public agency including the names of
19 reviewers of charter school applications, which names shall not be
20 redacted, and EZ pass records, or substantially similar records, for
21 vehicles owned by the State and any other public entities, other than
22 those reflecting law enforcement usage notwithstanding any other
23 law to the contrary.

24 "Public agency" or "agency" means any of the principal
25 departments in the Executive Branch of State Government, and any
26 division, agency, authority, board, bureau, office, commission or
27 other instrumentality within or created by such department; the
28 Legislature of the State and any office, board, bureau or
29 commission within or created by the Legislative Branch; and any
30 independent State authority, commission, instrumentality or agency.
31 The terms shall also mean any political subdivision of the State or
32 combination of political subdivisions, and any division, board,
33 bureau, office, commission or other instrumentality within or
34 created by a political subdivision of the State or combination of
35 political subdivisions, and any independent authority, commission,
36 instrumentality or agency created by a political subdivision or
37 combination of political subdivisions. The term shall also include a
38 school district, special district, an educational information resource
39 center established pursuant to P.L.1983, c.186 (C.18A:6-95.1 et
40 seq.), or charter school, quasi-governmental agency, or public
41 employee. The term shall also mean and include, by way of
42 example but not limitation, ²the following, and any substantially
43 similar successor organization or association thereof:² the New
44 Jersey State League of Municipalities, the New Jersey Association
45 of Counties, the New Jersey School Boards Association, and the
46 New Jersey State Interscholastic Athletic Association, ²[and a
47 substantially similar successor organization or association,]² a joint
48 insurance group or fund for political subdivisions of this State, and

1 bi-State agencies. The term shall not mean a volunteer fire company
2 or a volunteer fire department established pursuant to N.J.S.40A:14-
3 68, or a volunteer first aid, rescue or ambulance squad as defined in
4 section 3 of P.L.1987, c.284 (C.27:5F-20).

5 “Quasi-governmental agency” means any association,
6 commission, agency, authority, organization, public-private entity,
7 or any other entity, in which one or more public agencies exercise
8 substantial control, or as determined by the Government Records
9 Council or a court of law, by considering factors including but not
10 limited to: whether a public agency exercises control over the quasi-
11 government agency or the public agency maintains the ability to
12 review, approve, or reject the quasi-governmental agency’s
13 proposals or plans, holds a beneficial interest in the quasi-
14 governmental agency’s assets, is the primary source of funding of,
15 or is indebted to, or is a creditor of, or guarantor of the debts of, the
16 quasi-governmental agency. The term shall not include any entity
17 involving the Legislature or any organization organized under
18 paragraph (3) of subsection ²[c.] (c)² of section 501 of the federal
19 Internal Revenue Code (26 U.S.C.s.501) that was not created by, or
20 with the approval of, a public agency primarily for the purpose of
21 assisting that public agency or any labor organization or any
22 contractor providing goods or services to a public agency except as
23 otherwise provided by this subsection. However, nothing contained
24 herein shall affect the application of P.L.1963, c.73 (C.47:1A-1 et
25 seq.) to entities that otherwise fall within the definition of “public
26 agency.” The term shall not mean a volunteer fire company or a
27 volunteer fire department established pursuant to N.J.S.40A:14-68,
28 or a volunteer first aid, rescue or ambulance squad as defined in
29 section 3 of P.L.1987, c.284 (C.27:5F-20).

30 “Public employee” means any person who occupies any office,
31 position or employment in a public agency, as defined in this
32 section, but only to the extent that he or she acts in an official
33 capacity. This term shall also include, but shall not be limited to,
34 an elected or appointed person.

35 "Law enforcement agency" means a public agency, or part
36 thereof, determined by the Attorney General to have law
37 enforcement responsibilities.

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

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

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

46 "Victim's record" means an individually-identifiable file or
47 document held by a victims' rights agency which pertains directly to

1 a victim of a crime except that a victim of a crime shall have access
2 to the victim's own records.

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

8 "Victims' rights agency" means a public agency, or part thereof,
9 the primary responsibility of which is providing services, including
10 but not limited to food, shelter, or clothing, medical, psychiatric,
11 psychological or legal services or referrals, information and referral
12 services, counseling and support services, or financial services to
13 victims of crimes, including victims of sexual assault, domestic
14 violence, violent crime, child endangerment, child abuse or child
15 neglect, and the Victims of Crime Compensation Board, established
16 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as
17 the Victims of Crime Compensation Office pursuant to P.L.2007,
18 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.¹
19 (cf: P.L.2017, c.266, s.4)

20

21 4. Section 3 of P.L.1963, c.73 (C.47:1A-3) is amended to read
22 as follows:

23 3. a. Notwithstanding the provisions of P.L.1963, c.73
24 (C.47:1A-1 et seq.) as amended and supplemented, where it shall
25 appear that the record or records which are sought to be inspected,
26 copied, or examined shall pertain to an investigation in progress by
27 any public agency, the right of access provided for in P.L.1963,
28 c.73 (C.47:1A-1 et seq.) as amended and supplemented may be
29 denied if the inspection, copying or examination of such record or
30 records shall be inimical to the public interest; provided, however,
31 that this provision shall not be construed to allow any public agency
32 to prohibit access to a record of that agency that was open for
33 public inspection, examination, or copying before the investigation
34 commenced. Whenever a public agency, during the course of an
35 investigation, obtains from another public agency a government
36 record that was open for public inspection, examination or copying
37 before the investigation commenced, the investigating agency shall
38 provide the other agency with sufficient access to the record to
39 allow the other agency to comply with requests made pursuant to
40 P.L.1963, c.73 (C.47:1A-1 et seq.).

41 b. Notwithstanding the provisions of P.L.1963, c.73 (C.47:1A-
42 1 et seq.), as amended and supplemented, records containing the
43 following information concerning a criminal investigation shall be
44 available to the public within 24 hours or as soon as practicable, of
45 a request for such information:

46 where a crime has been reported but no arrest yet made,
47 information as to the type of crime, time, location and type of
48 weapon, if any;

1 if an arrest has been made, information as to the name, address
2 and age of any victims unless there has not been sufficient
3 opportunity for notification of next of kin of any victims of injury
4 and/or death to any such victim or where the release of the names of
5 any victim would be contrary to existing law or court rule. In
6 deciding on the release of information as to the identity of a victim,
7 the safety of the victim and the victim's family, and the integrity of
8 any ongoing investigation, shall be considered;

9 if an arrest has been made, information as to the defendant's
10 name, age, residence, occupation, marital status and similar
11 background information and, the identity of the complaining party
12 unless the release of such information is contrary to existing law or
13 court rule;

14 information as to the text of any charges such as the complaint,
15 accusation and indictment unless sealed by the court or unless the
16 release of such information is contrary to existing law or court rule;

17 information as to the identity of the investigating and arresting
18 personnel and agency and the length of the investigation;

19 information of the circumstances immediately surrounding the
20 arrest, including but not limited to the time and place of the arrest,
21 resistance, if any, pursuit, possession and nature and use of
22 weapons and ammunition by the suspect and by the police; and

23 information as to circumstances surrounding bail, whether it was
24 posted and the amount thereof.

25 Notwithstanding any other provision of this subsection, if the
26 custodian of a government record asserts that part of a particular
27 record is exempt from public access pursuant to P.L.1963, c.73
28 (C.47:1A-1 et seq.), as amended and supplemented, the custodian
29 shall redact from a copy of the record that portion which the
30 custodian asserts is exempt from access and shall promptly permit
31 access to the remainder of the record. If the custodian of a
32 government record redacts information from a copy of the record,
33 the custodian shall provide the requestor with a redacted version of
34 the document and one ²[affidavit or certified] written² statement
35 for the entire request that states the date of the record, the originator
36 or author of the record, the subject matter or title of the record, the
37 number of pages with redactions, and the specific statutory
38 provision or other lawful basis for each such redaction. The
39 custodian shall redact any such information by deleting or
40 obscuring only that information and shall not alter in any manner
41 the space in the government record formerly occupied by such
42 redacted information. This provision shall only apply to documents
43 redacted on or after the effective date of P.L. , c. (pending before
44 the Legislature as this bill).

45 Notwithstanding any other provision of this subsection, where it
46 shall appear that the information requested or to be examined will
47 jeopardize the safety of any person or jeopardize any investigation
48 in progress or may be otherwise inappropriate to release, such

1 information may be withheld. This exception shall be narrowly
2 construed to prevent disclosure of information that would be
3 harmful to a bona fide law enforcement purpose or the public
4 safety. Whenever a law enforcement official determines that it is
5 necessary to withhold information, the official shall issue a brief
6 statement explaining the decision.

7 (cf: P.L.2001, c.404, s.5)

8

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

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

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

7 If the custodian of a government record redacts information from
8 a copy of the record, the custodian shall provide the requestor with
9 a redacted version of the document and one ²[affidavit or certified]
10 written² statement for the entire request that states the date of the
11 record, the originator or author of the record, the subject matter or
12 title of the record, the number of pages with redactions, and the
13 specific statutory provision or other lawful basis for each such
14 redaction. The custodian shall redact any such information by
15 deleting or obscuring only that information and shall not alter in
16 any manner the space in the government record formerly occupied
17 by such redacted information. This provision shall only apply to
18 documents redacted on or after the effective date of P.L. _____,
19 c. (pending before the Legislature as this bill).

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

37 Access to electronic records and non-printed materials shall be
38 provided free of charge, but the public agency may charge for the
39 actual costs of any needed supplies such as computer discs.

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

43 (3) If a public agency maintains the record in an electronic
44 format or medium that can be electronically mailed without charge
45 to the requestor, ²[it shall] and unless the requestor has requested
46 the record be provided in the form of printed matter, the public
47 agency may² make the requestor aware ²of the electronic

1 availability of the record² and ²may² allow for delivery of the
2 record in such ²electronic² format or medium. ²[The] Upon
3 transmission of such notification, the² requestor shall have seven
4 business days to respond to the custodian, otherwise the request is
5 deemed fulfilled. ¹A requestor who requests the duplication of a
6 government record in the form of printed matter after being
7 apprised of its existence in an electronic format or medium may be
8 charged a special service charge as provided in subsection c. of this
9 section.¹

10 When a requestor has not specified his or her chosen method for
11 receipt of records and if the government record is on the public
12 agency website, the custodian shall advise the ²[requester]
13 requestor² to obtain the record from the agency website as long as
14 the custodian provides the website address, identifies each
15 responsive document and the specific location on the website of
16 each identified responsive document. If the ²[requester] requestor²
17 prefers to purchase copies from the public agency, he or she shall
18 be permitted to purchase such copies from the records custodian, in
19 accordance with the provisions of this act, P.L.1963, c.73 (C.47:1A-
20 1 et seq.) ¹and may be charged a special service charge as provided
21 in subsection c. of this section¹ . The requestor shall have seven
22 business days to respond to the custodian specifying that he or she
23 prefers to purchase the copies, otherwise the request may be
24 deemed fulfilled.

25 ²[If a public agency maintains a government record in a format
26 or medium that can be inspected without charge to the requestor, it
27 shall inform the requestor of the place and time that the record will
28 be available for inspection in such format or medium. If the
29 requestor prefers to purchase copies from the public agency, the
30 requester shall be permitted to purchase such copies from the
31 records custodian, in accordance with the provisions of this act,
32 P.L.1963, c.73 (C.47:1A-1 et seq.). The requestor shall have seven
33 business days to respond to the custodian specifying that he or she
34 prefers to purchase the copies, otherwise the request may be
35 deemed fulfilled.]²

36 c. Whenever the nature, format, medium, manner of collation,
37 or volume of a government record embodied in the form of printed
38 matter to be inspected, examined, or copied pursuant to this section
39 is such that the record cannot be reproduced by ordinary document
40 copying equipment in ordinary business size or involves an
41 extraordinary expenditure of time and effort to accommodate the
42 request, ¹or whenever a requestor requests duplication in printed
43 form of a record maintained in an electronic format or on an
44 agency's website as provided in paragraph (3) of subsection b. of
45 this section,¹ the public agency may charge, in addition to the actual
46 cost of duplicating the record, a special service charge [that]. A

1 special service charge shall be reasonable and shall be based upon
2 the actual, direct cost of providing the copy or copies **【**; provided,
3 however, that**】**. Special service charge rates, in the case of a
4 municipality, **【rates】** for the duplication of particular records when
5 the actual cost of copying exceeds the foregoing rates shall be
6 established in advance by ordinance. When a request is for a
7 commercial purpose, the public agency may charge, in addition to
8 the actual cost of duplicating the record, a special administrative
9 charge. A special administrative charge shall be reasonable and
10 related to ongoing operational expenses, and shall be for
11 expenditures eligible for inclusion in the special administrative
12 charge based upon the criteria and parameters set forth by the
13 Government Records Council.

14 For purposes hereof, the actual, direct costs shall mean those
15 expenditures that an agency actually incurs in searching for and
16 duplicating documents to respond to a request, which includes basic
17 rate of pay for the employee. ²**【Direct】** Actual, direct² costs shall
18 not include overhead expenses such as costs of space and heating or
19 lighting the facility in which the records are stored. The requestor
20 shall have the opportunity to review and object to the charge prior
21 to it being incurred. During such review, the public agency shall
22 provide the requestor, without charge, a detailed breakdown of how
23 the special service charge was assessed including, at a minimum,
24 reasonable estimates categorizing the hours needed to identify, copy
25 or prepare for inspection, and to produce and return the requested
26 documents, and the number of pages to be produced. Special
27 service charges shall not be assessed for requests for budgets, bills,
28 vouchers, contracts and public employee salary and overtime
29 information unless the request is ²**【deemed】**² voluminous.

30 d. A custodian shall permit access to a government record and
31 provide a copy thereof in the medium or format requested if the
32 public agency maintains the record in that medium or format. If the
33 public agency does not maintain the record in the medium or format
34 requested, the custodian shall either convert the record to the
35 medium or format requested or provide a copy in some other
36 meaningful medium or format. If a request is for a record: (1) in a
37 medium or format not routinely used by the agency; (2) not
38 routinely developed or maintained by an agency; or (3) requiring a
39 substantial amount of manipulation or programming of information
40 technology, the agency may charge, in addition to the actual cost of
41 duplication, a special charge that shall be reasonable and shall be
42 based on the cost for any extensive use of information technology,
43 or for the labor cost of personnel providing the service, that is
44 actually incurred by the agency or attributable to the agency for the
45 programming, clerical, and supervisory assistance required, or both.

46 e. Immediate access ordinarily shall be granted to budgets,
47 bills, vouchers, contracts, including collective negotiations

1 agreements and individual employment contracts, and public
2 employee salary and overtime information for the current, prior, and
3 upcoming fiscal year. Immediate access shall mean by the close of
4 business or 5 P.M., whichever is earlier, unless otherwise provided
5 by law or regulation. If the request is received at noon or if
6 received after noon, the request shall be fulfilled by noon the
7 following day, unless otherwise provided by law or regulation.

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

32 If a request for ²**[information]** a government record² is made in
33 writing on a document other than the form adopted by the public
34 agency and the request contains the requisite information prescribed
35 in this subsection, the custodian shall treat the request as if made on
36 the form adopted by the public agency. The document shall also
37 indicate and provide criminal background information, similar to
38 what is required on an adopted government record request form.

39 A response on any form providing criminal background
40 information on the requestor, whether in the affirmative or negative,
41 shall be confidential and shall be redacted prior to disclosure of any
42 such request. If a requestor does not provide criminal background
43 information, the custodian shall attempt to contact the requestor to
44 obtain such information, and shall not deny the request for failure to
45 provide such information unless attempts are made by the custodian
46 to obtain such information and the requestor refuses or cannot be
47 contacted.

1 g. A request for access to a government record shall be in
2 writing and hand-delivered, mailed, transmitted electronically,
3 including by electronic mail, transmitted by facsimile when no more
4 than four pages in length, or otherwise conveyed to the appropriate
5 custodian. A request that is intended for a commercial purpose shall
6 be certified to that fact in the request. The public agency may
7 require a requestor to state whether the requested records are for a
8 commercial purpose, but the agency shall not require the requestor
9 to provide the exact purpose of the commercial use.

10 A custodian shall promptly comply with a request to inspect,
11 examine, copy, or provide a copy of a government record. If a
12 record is missing or damaged, or the custodian is unable to comply
13 with or denies a request for access, the custodian shall indicate the
14 specific basis therefor ²[on the request form]² and promptly
15 ²[return it] transmit a written statement specifying the foregoing²
16 to the requestor. The custodian shall sign and date the ²[form]
17 statement² and provide the requestor with a copy thereof. If the
18 custodian of a government record asserts that part of a particular
19 record is exempt from public access pursuant to P.L.1963, c.73
20 (C.47:1A-1 et seq.) as amended and supplemented, the custodian
21 shall delete or excise from a copy of the record that portion which
22 the custodian asserts is exempt from access and shall promptly
23 permit access to the remainder of the record.

24 If the custodian of a government record redacts information from
25 a copy of the record, the custodian shall provide the requestor with
26 a redacted version of the document and one ²[affidavit or certified]
27 written² statement for the entire request that states the date of the
28 record, the originator or author of the record, the subject matter or
29 title of the record, the number of pages with redactions, and the
30 specific statutory provision or other lawful basis for each such
31 redaction. The custodian shall redact any such information by
32 deleting or obscuring only that information and shall not alter in
33 any manner the space in the government record formerly occupied
34 by such redacted information. This provision shall only apply to
35 documents redacted on or after the effective date of P.L. , c.
36 (pending before the Legislature as this bill).

37 If the government record requested is temporarily unavailable
38 because it is in use or in storage, the custodian shall so advise the
39 requestor and shall make arrangements to promptly make available
40 a copy of the record. If a request for access to a government record
41 would substantially disrupt agency operations, the custodian may
42 deny access to the record after attempting to reach a reasonable
43 solution with the requestor that accommodates the interests of the
44 requestor and the agency.

45 h. Any officer or employee of a public agency who receives a
46 request for access to a government record shall forward the request
47 to the custodian ²or deputy custodian, as appropriate,² of the record

1 or direct the requestor to the custodian ²or deputy custodian, as
2 appropriate,² of the record.

3 In the case of a municipality, ²[a custodian, in response to a
4 request for access forwarded by another officer or employee or
5 received directly by the custodian, may direct any officer or
6 employee of that municipality having custody of a record to] the
7 governing body thereof may designate or appoint one or more
8 deputy custodians who shall² act on the custodian's behalf ²for any
9 request for access to a record in the custody of the deputy
10 custodian's particular office or unit² and make the record available
11 for inspection, examination, ²electronic transmission,² copying, or
12 the purchase of copies ²as set forth herein² . Such ²[direction]
13 designation or appointment² shall ²[not relieve the custodian of
14 any] confer to the deputy custodian the² responsibility ²accorded to
15 records custodians² under P.L.1963, c.73 (C.47:1A-1 et seq.), as
16 amended and supplemented ², for each such request².

17 i. Unless a shorter time period is otherwise provided by
18 statute, regulation, or executive order, a custodian of a government
19 record shall grant access to a government record or deny a request
20 for access to a government record as soon as possible, but not later
21 than seven business days after receiving the request, ²[including]
22 beginning with² the business day ²[on] after² which the request
23 was received by the records custodian, ²[if received by noon,]²
24 provided that the record is currently available and not in storage or
25 archived. In the event a custodian fails to respond within seven
26 business days after receiving a request, the failure to respond shall
27 be deemed a denial of the request, unless the requestor has elected
28 not to provide a name, address or telephone number, or other means
29 of contacting the requestor. If the requestor has elected not to
30 provide a name, address, or telephone number, or other means of
31 contacting the requestor, the custodian shall not be required to
32 respond until the requestor reappears before the custodian seeking a
33 response to the original request. If the government record is in
34 storage or archived, the requestor shall be so advised within seven
35 business days after the custodian receives the request. The
36 requestor shall be advised by the custodian when the record can be
37 made available. If the record is not made available by that time,
38 access shall be deemed denied.

39 ²[A request received after 12 p.m. shall be deemed as received
40 on the next business day.]²

41 j. A custodian shall post prominently in public view in the part
42 or parts of the office or offices of the custodian that are open to or
43 frequented by the public a statement that sets forth in clear, concise
44 and specific terms the right to appeal a denial of, or failure to
45 provide, access to a government record by any person for

1 inspection, examination, or copying or for purchase of copies
2 thereof and the procedure by which an appeal may be filed.

3 The custodian of a public agency that has a website shall, at a
4 minimum, prominently post on the website the name, mailing
5 address, electronic mailing address, telephone number, and
6 facsimile number for the custodian of records as well as a statement
7 that information submitted to the agency, including home addresses,
8 may be considered a government record and available for public
9 review.

10 k. The files maintained by the Office of the Public Defender
11 that relate to the handling of any case shall be considered
12 confidential and shall not be open to inspection by any person
13 unless authorized by law, court order, or the State Public Defender.

14 l. A public agency shall adopt policies and procedures to
15 ensure that records exempt from disclosure are not inadvertently or
16 deliberately disclosed by the use of technology.

17 ²[A public agency shall adopt procedures to have computer
18 systems and computer applications collect, but not disclose,
19 information exempt from access but maintained as electronic
20 records.]²

21 Public agencies shall notify the public that the information
22 provided on official forms may be disclosed ²[,]² unless ²it is²
23 otherwise exempt by law.

24 (cf: P.L.2014, c.19, s.3)

25

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

28 7. A person who is denied access to a government record by
29 the custodian of the record, at the option of the requestor, may:

30 institute a proceeding to challenge the custodian's decision
31 ²[or],² seek injunctive relief ², or both,² by filing an action in
32 Superior Court which shall be heard in the vicinage where it is filed
33 by a Superior Court Judge who has been designated to hear such
34 cases because of that judge's knowledge and expertise in matters
35 relating to access to government records; or

36 in lieu of filing an action in Superior Court, file a complaint with
37 the Government Records Council established pursuant to section 8
38 of P.L.2001, c.404 (C.47:1A-7). If the Government Records
39 Council does not render a decision within the time period
40 established pursuant to subsection b. of section 8 of P.L.2001, c.404
41 (C.47:1A-7), the requestor may institute a proceeding to challenge
42 the custodian's decision by filing an action in Superior Court. That
43 court proceeding shall be deemed filed as of the date of filing of the
44 proceeding before the Government Records Council and shall
45 render the proceedings pending before the Government Records
46 Council withdrawn.

1 The right to institute any proceeding under this section shall be
2 solely that of the requestor. Any such proceeding shall proceed in a
3 summary or expedited manner. The public agency shall have the
4 burden of proving that the denial of access is authorized by law. If
5 it is determined that access has been improperly denied, the court or
6 agency head shall order that access be allowed. A requestor who
7 prevails in any proceeding shall be entitled to a reasonable
8 attorney's fee award. However, in actions involving a record
9 required by law to be made, maintained or kept on file and that does
10 not exist at the time of the request, the prevailing requestor shall not
11 be entitled to an attorney's fee award if both: (1) the failure to
12 make, maintain, or keep the record is due to mere negligence or no
13 fault on the part of the public ²[entity] agency² ; and (2) the
14 requestor was informed in ²[writing by formal certification or
15 affidavit] a written statement² by the records custodian ²[prior to
16 the filing of the complaint] pursuant to subsections g. and i. of
17 section 6 of P.L.2001, c.404 (C.47:1A-5) ² that the record does not
18 exist or no longer exists, the specific efforts taken to obtain the
19 record and why the record could not be produced. Under
20 appropriate circumstances, the rules of court and section 1 of
21 P.L.1988, c.46 (C.2A:15-59.1), shall apply for frivolous causes of
22 action.

23 (cf: P.L.2001, c.404, s.7)

24
25 7. Section 8 of P.L.2001, c.404 (C.47:1A-7) is amended to read
26 as follows:

27 8. a. There is established in, but not of, the Department of
28 Community Affairs a Government Records Council. The council
29 shall consist of ²;² [the Commissioner of Community Affairs or the
30 commissioner's designee, the Commissioner of Education or the
31 commissioner's designee, and three] ²[four] two² public members
32 appointed by the Governor, with the advice and consent of the
33 Senate, ²[not more than two of whom] who² shall ²not² be of the
34 same political party, one of whom shall have experience with the
35 news media ²[, one of whom shall be a member of the Municipal
36 Clerks' Association of New Jersey, one of whom shall be a member
37 of the New Jersey Press Association,]² and one of whom shall have
38 experience with State government as a public records custodian;
39 and ²[three] five² members appointed by the Governor, one upon
40 the recommendation of the Senate President, one upon the
41 recommendation of the Speaker of the General Assembly, ²[and]²
42 one upon the ²[joint]² recommendation of the ²[Senate President
43 and Speaker of the General Assembly,] Municipal Clerks'
44 Association of New Jersey, and one upon the recommendation of
45 the New Jersey Press Association,² no more than ²[two] three² of
46 whom shall be of the same political party. The [three public]

1 members appointed by the Governor shall serve **【**during the term of
2 the Governor making the appointment and**】** until the appointment of
3 a successor. **【**A public member shall not hold any other**】** Upon the
4 effective date of P.L. , c. (C.) (pending before the Legislature
5 as this bill), two members shall serve for a term of four years, two
6 members shall serve for a term of three years, three members shall
7 serve for a term of two years. No member while serving shall be an
8 officer with the New Jersey Press Association, the New Jersey State
9 League of Municipalities, the Municipal Clerks' Association of
10 New Jersey, or a substantially similar organization.

11 No member while serving as a member of the council shall be
12 able to hold a State or local elected or appointed office or
13 employment **【**while serving as a member of the council**】** unless it
14 relates to the experience required for serving as a member of the
15 council. A **【**public**】** member shall not receive a salary for service
16 on the council but shall be reimbursed for reasonable and necessary
17 expenses associated with serving on the council and may receive
18 such per diem payment as may be provided in the annual
19 appropriations act. A member may be removed by the Governor
20 only for cause upon notice and opportunity to be heard. Vacancies
21 among the **【**public**】** members shall be filled in the same manner in
22 which the original appointment was made. **【**The members of the
23 council shall choose one of the public members to serve as the
24 council's chair**】** The Governor shall appoint one of the seven
25 members to serve as the chair of the council, and, once appointed,
26 that member shall serve on the council and be chair of the council
27 from the date of appointment until the end of the term of office of
28 the member or until a successor is appointed and qualified. The
29 chair may be removed by the Governor only for cause upon notice
30 and opportunity to be heard. The council may employ an executive
31 director and such professional and clerical staff as it deems
32 necessary and may call upon the Department of Community Affairs
33 for such assistance as it deems necessary and may be available to it.
34 The terms of the members serving on the effective date of P.L. ,
35 c. (C.) (pending before the Legislature as this bill) are
36 terminated as of that effective date.

37 b. The Government Records Council shall:

38 **【**establish an informal mediation program to facilitate the
39 resolution of disputes regarding access to government records;**】**

40 ²establish an informal mediation program to facilitate the
41 resolution of disputes regarding access to government records;²

42 receive, hear, review and adjudicate a complaint filed by any
43 person concerning a denial of access to a government record by a
44 records custodian;

45 render a decision on all disputes and complaints within 150
46 calendar days of the filing of the complaint;

1 issue advisory opinions, on its own initiative, as to whether a
2 particular type of record is a government record which is accessible
3 to the public;

4 prepare guidelines and an informational pamphlet for use by
5 records custodians in complying with the law governing access to
6 public records;

7 prepare an informational pamphlet explaining the public's right
8 of access to government records and the methods for resolving
9 disputes regarding access, which records custodians shall make
10 available to persons requesting access to a government record;

11 prepare lists for use by records custodians of the types of records
12 in the possession of public agencies which are government records;

13 make training opportunities available for records custodians and
14 other public officers and employees which explain the law
15 governing access to public records; **[and]**

16 post the recommendations that the Government Records Council
17 will consider for each case online twenty-four hours before the
18 meeting, to the extent known;

19 have paper copies available at the meeting at which the case will
20 be heard, with any changes or additions that were not present when
21 the information was posted online; and

22 operate an informational website and a toll-free helpline staffed
23 by knowledgeable employees of the council during regular business
24 hours which shall enable any person, including records custodians,
25 to call for information regarding the law governing access to public
26 records and allow any person to request mediation or to file a
27 complaint with the council when access has been denied;

28 In implementing the provisions of subsections d. and e. of this
29 section, the council shall: act, to the maximum extent possible, at
30 the convenience of the parties; utilize teleconferencing, faxing of
31 documents, e-mail and similar forms of modern communication;
32 and when in-person meetings are necessary, send representatives to
33 meet with the parties at a location convenient to the parties.

34 c. At the request of the council, a public agency shall produce
35 documents and ensure the attendance of witnesses with respect to
36 the council's investigation of any complaint or the holding of any
37 hearing. Each party shall have the opportunity to provide to the
38 council any documents or information necessary for the
39 adjudication of the case.

40 d. Upon receipt of a written complaint signed by any person
41 alleging that a custodian of a government record has improperly
42 denied that person access to a government record, the council shall
43 offer the parties the opportunity to resolve the dispute through
44 mediation ²[pursuant to section 13 of P.L. , c. (C.) (pending
45 before the Legislature as this bill)]². Mediation shall enable a
46 person who has been denied access to a government record and the
47 custodian who denied or failed to provide access thereto to attempt
48 to mediate the dispute through a process whereby a neutral mediator

1 **【, who shall be trained in mediation selected by the council,】** ²,
2 who shall be trained in mediation selected by the council,² acts to
3 encourage and facilitate the resolution of the dispute. **【Mediation**
4 **shall be an informal, nonadversarial process having the objective of**
5 **helping the parties reach a mutually acceptable, voluntary**
6 **agreement. The mediator shall assist the parties in identifying**
7 **issues, foster joint problem solving, and explore settlement**
8 **alternatives.】** ²Mediation shall be an informal, nonadversarial
9 process having the objective of helping the parties reach a mutually
10 acceptable, voluntary agreement. The mediator shall assist the
11 parties in identifying issues, foster joint problem solving, and
12 explore settlement alternatives.²

13 e. If any party declines mediation or if mediation fails to
14 resolve the matter to the satisfaction of all parties, the council shall
15 initiate an investigation concerning the facts and circumstances set
16 forth in the complaint. The council shall make a determination as
17 to whether the complaint is within its jurisdiction or frivolous or
18 without any reasonable factual basis. If the council shall conclude
19 that the complaint is outside its jurisdiction, frivolous or without
20 factual basis, it shall reduce that conclusion to writing and transmit
21 a copy thereof to the complainant and to the records custodian
22 against whom the complaint was filed. Otherwise, the council shall
23 notify the records custodian against whom the complaint was filed
24 of the nature of the complaint and the facts and circumstances set
25 forth therein. The custodian shall have **【the】** an opportunity to
26 **【present】** answer the complaint by presenting the board with a
27 signed and dated affidavit containing the same information provided
28 to the complainant pursuant to subsection a. of section 6 of
29 P.L.2001, c.404 (C.47:1A-5), if applicable, and any other statement
30 or information concerning the complaint which the custodian
31 wishes. The complainant shall have an opportunity to offer a brief
32 reply affidavit that addresses any claims or defenses in the
33 custodian's answer. The complainant shall not set forth therein any
34 new allegations that do not address the custodian's claims or
35 defense. If the council is able to make a determination as to a
36 record's accessibility based upon the complaint **【and】** ², the
37 custodian's **【response thereto】** answer, and the complainant's reply,
38 it shall reduce that conclusion to writing and transmit a copy thereof
39 to the complainant and to the records custodian against whom the
40 complaint was filed. If the council is unable to make a
41 determination as to a record's accessibility based upon the
42 complaint **【and】** ², the custodian's **【response thereto】** answer, and
43 the complainant's reply, the council shall conduct a hearing on the
44 matter in conformity with the rules and regulations provided for
45 hearings by a State agency in contested cases under the
46 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
47 seq.), insofar as they may be applicable and practicable. The

1 council shall, by a majority vote of its members, render a decision
2 as to whether the record which is the subject of the complaint is a
3 government record which must be made available for public access
4 pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and
5 supplemented. If the council determines, by a majority vote of its
6 members, that a custodian has **【knowingly and willfully】**
7 ²knowingly and² willfully denied access or ²has² been grossly
8 negligent, as defined by section 12 of P.L.2001, c.404 (C.47:1A-
9 11), and violated P.L.1963, c.73 (C.47:1A-1 et seq.), as amended
10 and supplemented, and is found to have unreasonably denied access
11 under the totality of the circumstances, the council may impose the
12 penalties provided for in section 12 of P.L.2001, c.404 (C.47:1A-
13 11). A decision of the council may be appealed to the **【Appellate**
14 Division of the **】** Appellate Division of the Superior Court. A
15 decision of the council shall not have value as a precedent for any
16 case initiated in Superior Court pursuant to section 7 of P.L.2001,
17 c.404 (C.47:1A-6). All proceedings of the council pursuant to this
18 subsection shall be conducted as expeditiously as possible.

19 f. The council shall not charge any party a fee in regard to
20 actions filed with the council. The council shall be subject to the
21 provisions of the "Open Public Meetings Act," P.L.1975, c.231
22 (C.10:4-6), except that the council may go into closed session
23 during that portion of any proceeding during which the contents of a
24 contested record would be disclosed. A requestor who prevails in
25 any proceeding shall be entitled to a reasonable attorney's fee.

26 g. The council shall not have jurisdiction over the Judicial or
27 Legislative Branches of State Government or any agency, officer, or
28 employee of those branches.

29 h. The council shall make available on its website a searchable
30 index of its opinions ², which index shall indicate, to the extent
31 possible, whether or not an opinion has been superseded by statute
32 or invalidated by a court of competent jurisdiction².

33 (cf: P.L.2001, c.404, s.8)

34
35 8. Section 11 of P.L.2001, c.404 (C.47:1A-10) is amended to
36 read as follows:

37 11. Notwithstanding the provisions of P.L.1963, c.73 (C.47:1A-
38 1 et seq.) or any other law to the contrary, the personnel or pension
39 records of any individual in the possession of a public agency,
40 including but not limited to records relating to any grievance filed
41 by or against an individual, shall not be considered a government
42 record and shall not be made available for public access, except
43 that:

44 an individual's name, title, position, educational and training
45 background, salary, payroll record, length of service, date of
46 separation and the reason therefor, work address and work

1 telephone number, job description, and the amount and type of any
2 pension received shall be a government record;

3 personnel or pension records of any individual shall be
4 accessible when required to be disclosed by another law, when
5 disclosure is essential to the performance of official duties of a
6 person duly authorized by this State or the United States, or when
7 authorized by an individual in interest; **[and]**

8 records pertaining to the factual basis for the final administrative
9 determination of a disciplinary action, including a disciplinary
10 action that is the result of an internal affairs investigation by a
11 public safety agency, in which an employee is suspended, demoted,
12 discharged, or resigned not in good standing, if it was due to the
13 conviction of a crime, shall be a government record, except that
14 specific factual details of incidents involving sexual harassment,
15 sexual assault, domestic violence or rape by or against a public
16 employee, and the identity of the victim of the misconduct alleged,
17 may be deleted or excised if disclosure would violate any
18 individual's reasonable expectation of privacy so long as the agency
19 provides a statement that such information is being deleted or
20 excised pursuant to this particular exception;

21 records pertaining to settlements of lawsuits or claims involving
22 public agencies, public officials or employees shall be a
23 government record, except that specific factual details of incidents
24 involving sexual harassment, sexual assault, domestic violence or
25 rape by or against a public employee, and the identity of the victim
26 of the misconduct alleged, may be deleted or excised if disclosure
27 would violate any individual's reasonable expectation of privacy so
28 long as the agency provides a statement that such information is
29 being deleted or excised pursuant to this particular exception. No
30 public agency shall be liable for damages, pursuant to this
31 subsection, for releasing settlements of lawsuits or claims involving
32 public agencies, public officials or employees, entered into before
33 the effective date of P.L. , c. (pending before the Legislature as
34 this bill). The public agency shall make reasonable efforts to notify
35 the affected parties of the release of the documents; and

36 factual or statistical data **[contained in information]** which
37 disclose conformity with specific experiential, educational or
38 medical qualifications required for government employment or for
39 receipt of a public pension, but not including any detailed medical
40 or psychological information, shall be a government record.

41 Nothing in this section exempts disclosure of disciplinary
42 records otherwise required by law to be disclosed or made public.

43 (cf: P.L.2001, c.404, s.11)

44

45 9. Section 12 of P.L.2001, c.404 (C.47:1A-11) is amended to
46 read as follows:

47 12. a. A public official, officer, employee or custodian who
48 **[knowingly and willfully]** violates P.L.1963, c.73 (C.47:1A-1 et

1 seq.), as amended and supplemented, and is found **to have**
2 **unreasonably** grossly negligent by having denied access or is
3 found to have ²knowingly and² willfully denied access under the
4 totality of the circumstances, shall be subject to a civil penalty of
5 \$1,000 for an initial violation, \$2,500 for a second violation that
6 occurs within 10 years of an initial violation, and \$5,000 for a third
7 violation that occurs within 10 years of an initial violation. No
8 public official, officer, employee or custodian shall be subject to a
9 civil penalty for any unavailable record that is required by law to be
10 made, maintained or kept on file unless the unavailability of the
11 record is a result of the ²knowing and² willful actions or gross
12 negligence of such person.

13 A requestor who is found to have intentionally failed to certify
14 that a records request is for commercial purposes shall be subject to
15 a civil penalty of \$500 ²for the first offense, \$1,000 for the second
16 offense, and \$2,000 for each subsequent offense².

17 Penalties may be imposed by the courts or the Government
18 Records Council. A penalty imposed pursuant to P.L.1963, c.43
19 (C.47:1A-1 et seq.) shall be paid by the individual found to have
20 committed the violation out of the individual's personal funds.
21 Under no circumstances shall public funds, or contributions as
22 defined in subsection b. of section 3 of P.L.1973, c.83 (C.19:44A-3)
23 of "The New Jersey Campaign Contributions and Expenditures
24 Reporting Act", be used to pay a penalty or to reimburse a person
25 who has paid, or will pay, a penalty for the cost of that penalty.

26 **【This penalty】** These penalties shall be collected and enforced in
27 proceedings in accordance with the "Penalty Enforcement Law of
28 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court
29 governing actions for the collection of civil penalties. The Superior
30 Court shall have jurisdiction of proceedings for the collection and
31 enforcement of the penalty imposed by this section.

32 Appropriate disciplinary proceedings may be initiated against a
33 public official, officer, employee or custodian against whom a
34 penalty has been imposed.

35 For the purposes of this act, P.L.1963, c.73 (C.47:1A-1 et seq.),
36 "grossly negligent" shall mean engaging in conduct involving a
37 gross deviation from the acceptable standards of conduct from the
38 duties and responsibilities imposed by this act that a reasonable
39 person would have observed in the actor's situation.

40 (cf: P.L.2001, c.404, s.12)

41

42 10. Section 14 of P.L.2001, c.404 (C.47:1A-13) is amended to
43 read as follows:

44 14. The Commissioner of Community Affairs shall include in
45 the annual budget request of the Department of Community Affairs
46 **【a】** the request submitted by the Government Records Council for

1 sufficient funds to effectuate the purposes of section 8 of P.L.2001,
2 c.404 (C.47:1A-7).
3 (cf: P.L.2001, c.404, s.14)
4

5 11. (New section) Any authority contained herein to exempt
6 records from public access by regulation or Executive Order of the
7 Governor shall be expressly limited to the designation of specific
8 records that are exempt from access pursuant to any exemptions set
9 forth in this act, P.L.1963, c.73 (C.47:1A-1 et seq.), and shall not be
10 construed as a grant or delegation of authority to exempt records
11 from public access not otherwise exempt by the provisions this act.
12

13 12. (New section) a. In exceptional circumstances, and
14 notwithstanding any other law or rule or regulation to the contrary,
15 whenever there is filed a verified petition to the Superior Court of
16 the county in which the request for government records was made
17 under P.L.1963, c.73 (C.47:1A-1 et seq.) alleging that a requestor
18 has sought records thereunder for the '1[sole]1' purpose to harass a
19 public agency, the court may issue a protective order limiting the
20 number and scope of requests the requestor may make or such other
21 relief as it deems appropriate, including referral of the matter to
22 mediation. The court may issue the protective order if it finds that
23 the requestor has sought records under P.L.1963, c.73 (C.47:1A-1 et
24 seq.) for the '1[sole]1' purpose to harass the public agency as the
25 term harass is defined in N.J.S.2C:33-4. The petition shall be
26 accompanied by a declaration of facts by the public agency
27 withholding the records demonstrating that it has complied with
28 P.L.1963, c.73 (C.47:1A-1 et seq.) and has made a good faith effort
29 to reach an informal resolution of the issues relating to the records
30 request. The requestor shall have notice and an opportunity to
31 answer the allegations set forth in the petition submitted by the
32 public agency. The public agency shall have the burden of proof by
33 clear and convincing evidence. The court's consideration of a
34 public agency's petition for relief shall proceed in a summary or
35 expedited manner and shall include a formal hearing whenever the
36 interest of justice so requires. If the custodian of a public agency
37 determines that responding to a record request will substantially
38 disrupt agency operations, the custodian may deny access to the
39 record after attempting to reach a reasonable solution with the
40 requestor that accommodates the interests of the requestor and the
41 agency, as set forth in subsection g. of section 6 of P.L.2001, c.404
42 (C.47:1A-5).

43 b. The order specified in subsection a. of this section may limit,
44 or in appropriate circumstances, eliminate, the public agency's duty
45 to respond to government records requests from the requestor in the
46 future.

47 c. Upon entry of an order pursuant to this section, the order of
48 the court shall be immediately reviewable by petition to the

1 Appellate Division of the Superior Court. A party shall, in order to
2 obtain review of the order, file a petition within 20 days after
3 service upon him or her of a written notice of entry of the order, or
4 within further time not exceeding an additional 20 days as the court
5 may for good cause allow. If the notice is served by mail, the
6 period within which to file the petition shall be increased by five
7 days. A stay of an order or judgment shall not be granted unless the
8 petitioning party demonstrates that it will otherwise sustain
9 irreparable damage and probable success on the merits. Any person
10 who fails to obey the order of the court shall be cited to show cause
11 why he or she is not in contempt of court.

12

13 ²[13. (New section) The Office of Dispute Settlement, in the
14 Office of The Public Defender, shall be available to mediate a
15 dispute over records requests when both requestor and public
16 agency consent thereto. However, mediation shall not alter the
17 responsibility of the custodian to respond and provide documents
18 within the timeframes set forth in this act, P.L.1963, c.73 (C.47:1A-
19 1 et seq.).]²

20

21 ¹[14. (New section) a. Notwithstanding the provisions of any
22 other law to the contrary, the State Treasurer, in consultation with
23 the Chief Technology Officer, shall design and develop, maintain
24 and operate a single, searchable Internet website that is accessible
25 to the general public without charge for access, and that includes
26 data or information concerning each of the following:

27 annual State agency expenditures, as determined by the State
28 Treasurer and as may be available within the central accounting
29 system and State payroll system, which shall include but not be
30 limited to: disbursements by a State agency from funds established
31 within the State treasury; bond debt services, including amounts of
32 bond debt or interest paid and sources of funds for bond issues;
33 salaries and wages including, compensation paid to employees of
34 State agencies, including current contracts under which
35 compensation is determined; contractual service purchases,
36 including amounts paid to vendors; commodity purchases, including
37 amounts paid to vendors; capital outlay and improvements,
38 including amounts paid to vendors; aid to local units of government,
39 including amounts paid to individual units of local government for
40 aid programs; additional forms of assistance and benefits as
41 determined by the State Treasurer; and the exact amount of each
42 such expenditure and the name and address of each individual,
43 organization, business or other entity receiving such monies;

44 annual State revenues, as determined by the State Treasurer and
45 as may be available within the central accounting system, which
46 shall include but not be limited to: receipts and deposits by a State
47 agency into funds established within the State treasury; taxes,
48 including any tax which is payable to or collectible by the Director

1 of the Division of Taxation in the Department of the Treasury; State
2 agency earnings, including amounts collected by each State agency
3 for merchandise sold, services performed, and licenses and permits
4 issued; revenue derived from the use of money and property,
5 including amounts received for compensation for the use of State-
6 owned money and property; gifts, donations, and federal grants,
7 including amounts received from public and private entities to aid
8 in support of a specific function or other governmental activity;
9 other revenue, including receipts not classified elsewhere; and non-
10 revenue receipts, including all receipts that do not constitute
11 revenue;

12 annual State bonded indebtedness, as determined by the State
13 Treasurer and as may be available within the central accounting
14 system, which shall include but not be limited to: the amount of the
15 total original obligation stated in terms of principal and interest; the
16 term of the obligation; the source of funding for repayment of the
17 obligation; the amount of principal and interest previously paid to
18 reduce the obligation; the remaining balance of the obligation; data
19 or information related to refinancing of the obligation; the cited
20 statutory or constitutional authority to issue such bonds; the specific
21 names of firms or individuals serving as bond counsel; and the
22 names of the banks assisting in the sale of bonds;

23 annual State liabilities for pension and post-retirement medical
24 benefits, as determined by the State Treasurer and as may be
25 available within the central accounting system; and

26 any other data or information determined to be necessary and
27 appropriated by the State Treasurer.

28 b. The Internet website designed and developed, maintained
29 and operated by the State Treasurer in accordance with this section
30 shall include all data and information enumerated in subsection a.
31 of this section for State fiscal year 2013 and each State fiscal year
32 thereafter. The data and information posted on the Internet website
33 may be periodically updated, but shall not be subject to removal.

34 The data and information required to be posted on the Internet
35 website that is based on or otherwise derived from data or
36 information made available from the central accounting system or
37 the State payroll system shall be made available on the Internet
38 website as soon as practicable, but not later than 45 days after the
39 last day of the preceding State fiscal year.

40 The State Treasurer shall not be required to provide data or
41 information on the Internet website of the kind that is not available
42 in the central accounting system or the State payroll system on the
43 date the Internet website is first made available to the public.

44 The State Treasurer shall be entitled to receive from each State
45 agency any assistance and information the State Treasurer
46 determines to be necessary and appropriate to compile the data and
47 information necessary to design and develop, maintain and operate
48 the Internet website.

1 The State Treasurer shall not be required to disclose or otherwise
2 make available on the Internet website data or information that is
3 determined by the State Treasurer to be private, personal, or
4 confidential in accordance with State or federal law, rules, or
5 regulations.

6 c. Notwithstanding the provisions of the “Administrative
7 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
8 contrary, the State Treasurer may adopt immediately upon filing
9 with the Office of Administrative Law such rules and regulations as
10 the State Treasurer determines to be necessary and appropriate to
11 design and develop, maintain and operate the Internet website and
12 to compile data and information in accordance with this section,
13 which rules and regulations shall be effective for a period not to
14 exceed 360 days following the effective date of
15 P.L. , c. (pending before the Legislature as this bill) and may
16 thereafter be amended, adopted, or readopted by the State Treasurer
17 in accordance with P.L.1968, c.410 (C.52:14B-1 et seq.).

18 d. As used in this section:

19 "Chief Technology Officer" means the person appointed by and
20 serving at the pleasure of the Governor who is responsible for the
21 day-to-day operations of the Office of Information Technology in,
22 but not of, the Department of the Treasury; and

23 “State agency” means any of the principal departments in the
24 Executive Branch of State Government, and any division, board,
25 bureau, office, commission, or other instrumentality within or
26 created by such principal department; the Legislature of the State
27 and any office, board, bureau, or commission within or created by
28 the Legislative Branch of State Government; the Judiciary of the
29 State and any office, board, bureau, or commission within or
30 created by the Judicial Branch of State Government; and any
31 independent State authority, commission, instrumentality, or
32 agency.】¹

33

34 ²【¹⁴.】 13.² Section 4 of P.L.2017, c.2 (C.52:18A-234.4) is
35 amended to read as follows:

36 4. a. A Chief Data Officer shall be appointed by the Chief
37 Technology Officer, after consultation with the State Treasurer.
38 The Chief Data Officer, in cooperation with the State Treasurer,
39 shall be responsible for overseeing and implementing a unique,
40 dedicated open data website and any additional or existing open
41 data websites linked thereto by an agency. The Chief Data Officer
42 shall have the authority to:

43 (1) establish, in consultation with the Attorney General,
44 procedures, standards, and best practices regarding the appropriate
45 access and presentation of open data and datasets by each agency;

46 (2) develop a dataset format standard to be used by all agencies
47 in providing their datasets to the Chief Data Officer, or in making
48 their data available on their own websites, and ensure that under the

1 standard, the datasets shall be accessible in a non-proprietary,
2 machine-readable format that is compliant with federal and State
3 accessibility rules and requirements and implemented on a schedule
4 deemed appropriate by the Chief Data Officer;

5 (3) monitor and ensure compliance with the procedures,
6 standards, and policies adopted pursuant to this act;

7 (4) provide such management and technical assistance as the
8 Chief Data Officer deems necessary to ensure that there is ready
9 access to the open data and datasets available to the public and
10 agencies; and

11 (5) develop, in conjunction with the Attorney General, a
12 methodology to review and reconcile inter-agency disputes
13 regarding access to open data and datasets, and privacy issues.

14 b. The Chief Data Officer, with the cooperation of the State
15 Treasurer, shall be responsible for:

16 (1) creating and maintaining a unique, dedicated website that
17 either provides datasets maintained and provided by agencies or
18 searchable links to datasets hosted by agency websites;

19 (2) updating datasets and links as they are provided by an
20 agency; and

21 (3) monitoring agency websites to make certain they follow the
22 policies and procedures established by the Chief Data Officer
23 pursuant to this section.

24 c. (1) The open data website shall include data or information
25 concerning each of the following, which may be periodically
26 updated, but shall not be subject to removal, and which shall be
27 required of agencies, as that term is defined in section 3. of
28 P.L.2017, c.2 (C.52:18A-234.3), and of the Legislature of the State
29 and any office, board, bureau, or commission within or created by
30 the Legislative Branch of State Government; the Judiciary of the
31 State and any office, board, bureau, or commission within or
32 created by the Judicial Branch of State Government; and any
33 independent State authority, commission, instrumentality, or
34 agency:

35 annual agency expenditures, as determined by the State
36 Treasurer and as may be available within the central accounting
37 system and State payroll system, which shall include but not be
38 limited to: disbursements by an agency from funds established
39 within the State treasury; bond debt services, including amounts of
40 bond debt or interest paid and sources of funds for bond issues;
41 salaries and wages including, compensation paid to employees of
42 State agencies, including current contracts under which
43 compensation is determined; contractual service purchases,
44 including amounts paid to vendors; commodity purchases, including
45 amounts paid to vendors; capital outlay and improvements,
46 including amounts paid to vendors; aid to local units of government,
47 including amounts paid to individual units of local government for
48 aid programs; additional forms of assistance and benefits as

1 determined by the State Treasurer; and the exact amount of each
2 such expenditure and the name and address of each individual,
3 organization, business or other entity receiving such monies;

4 annual State revenues, as determined by the State Treasurer and
5 as may be available within the central accounting system, which
6 shall include but not be limited to: receipts and deposits by an
7 agency into funds established within the State treasury; taxes,
8 including any tax which is payable to or collectible by the Director
9 of the Division of Taxation in the Department of the Treasury;
10 agency earnings, including amounts collected by each agency for
11 merchandise sold, services performed, and licenses and permits
12 issued; revenue derived from the use of money and property,
13 including amounts received for compensation for the use of State-
14 owned money and property; gifts, donations, and federal grants,
15 including amounts received from public and private entities to aid
16 in support of a specific function or other governmental activity;
17 other revenue, including receipts not classified elsewhere; and non-
18 revenue receipts, including all receipts that do not constitute
19 revenue;

20 annual State bonded indebtedness, as determined by the State
21 Treasurer and as may be available within the central accounting
22 system, which shall include but not be limited to: the amount of the
23 total original obligation stated in terms of principal and interest; the
24 term of the obligation; the source of funding for repayment of the
25 obligation; the amount of principal and interest previously paid to
26 reduce the obligation; the remaining balance of the obligation; data
27 or information related to refinancing of the obligation; the cited
28 statutory or constitutional authority to issue such bonds; the specific
29 names of firms or individuals serving as bond counsel; and the
30 names of the banks assisting in the sale of bonds;

31 annual State liabilities for pension and post-retirement medical
32 benefits, as determined by the State Treasurer and as may be
33 available within the central accounting system; and

34 any other data or information determined to be necessary and
35 appropriated by the State Treasurer.

36 (2) The data and information required to be posted on the
37 Internet website that is based on or otherwise derived from data or
38 information made available from the central accounting system or
39 the State payroll system shall be made available on the open data
40 website as soon as practicable, but not later than 45 days after the
41 last day of the preceding State fiscal year. Data or information of
42 the kind that is not available in such systems on the effective date of
43 P.L. , c. (C.) (pending before the Legislature as this bill)
44 shall not be required to be posted.

45 The Chief Data Officer shall be entitled to receive from each
46 agency any assistance and information the Chief Data Officer
47 determines to be necessary and appropriate to compile the data and

1 information necessary to maintain and operate the open data
2 website.

3 The Chief Data Officer shall not be required to disclose or
4 otherwise make available on the open data website data or
5 information that is determined by the State Treasurer or the
6 Attorney General to be private, personal, or confidential in
7 accordance with State or federal law, rules, or regulations.

8 d. The State Treasurer and an agency may, pursuant to the
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.), adopt such rules and regulations as may be deemed necessary
11 to effectuate the purposes of this act.¹

12 (cf: P.L.2017, c.2, s.4)

13

14 ²[15.] 14.² (New section) a. There is established the New
15 Jersey Local Public Finance Internet Website Development
16 Program.

17 b. The program shall be under the jurisdiction of the
18 Department of the Treasury, and shall be administered by the State
19 Treasurer, the Chief Technology Officer, and any clerical,
20 technical, and other professional staff or assistants as may be
21 designated by the State Treasurer from among the personnel
22 appointed and employed by the department.

23 c. The purpose of the program shall be to provide advice and
24 technical assistance to units of local government that elect to design
25 and develop, maintain and operate a single, searchable local public
26 finance Internet website that has the capacity to display and retain
27 data and information concerning the unit of local government's (1)
28 annual expenditures, including ¹[.]¹ bond debt services and
29 interest, salaries and wages paid to employees, contractual service
30 purchases including amounts paid to vendors, commodity purchases
31 including amounts paid to vendors, capital outlays and
32 improvements including amounts paid to vendors, and aid paid to
33 subunits of the entity; (2) annual revenues, including ¹[.]¹ revenue
34 derived from the receipts and deposits from any State agency, taxes
35 including compulsory tolls or fees imposed by the public entity for
36 the purpose of financing services, the amounts received as
37 compensation for the use of property owned or used by the public
38 entity, and gifts, donations and federal grants and other sources of
39 revenue not classified elsewhere; (3) total bonded indebtedness,
40 including the amount of the original obligation stated in terms of
41 principal and interest, the terms of the obligation and the source of
42 funding for the repayment thereof, the amounts of principal and
43 interest previously paid to reduce the obligation and the remaining
44 balance of the obligation, the data and information related to
45 refinancing of the obligation, if such refinancing occurred, the
46 statutory or constitutional authority to issue such bonds, the name
47 of the firms or individuals serving as bond counsel, and the name of
48 the banks assisting in the sale of bonds; and (4) outstanding

1 liabilities for pension and post-retirement medical benefits; and has
2 the capacity to display and retain public notices, agendas,
3 schedules, minutes, and other electronic documents required to be
4 made available in accordance with P.L.1963, c.73 (C.47:1A-1 et
5 seq.).

6 d. ¹The Office of Information Technology, under the authority
7 of the State Treasurer and in consultation with the Department of
8 Community Affairs, the Government Records Council, a
9 representative from the Municipal Clerks' Association of New
10 Jersey, a representative from the New Jersey Association of
11 Counties, and a representative from the New Jersey League of
12 Municipalities shall develop and maintain a searchable, online
13 database to which units of local government may submit any
14 government record for retention thereon. The list of searchable
15 uploaded records shall be updated regularly.

16 This subsection shall not be construed to affect or supplant any
17 requirement of or any duty incumbent upon a records custodian
18 established pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.).

19 e.¹ To effectuate the purposes of the program, the State
20 Treasurer shall:

21 make and publish guidelines that may be used by local units of
22 government to identify best practices in the design of a single,
23 searchable local public finance Internet website;

24 procure and make available to local units of government a
25 template and any prewritten or custom computer software that the
26 State Treasurer determines to be necessary and appropriate to
27 develop a single, searchable local public finance Internet website;
28 and

29 direct the Chief Technology Officer to provide information
30 technology support and services that may be determined by the
31 Chief Technology Officer to be necessary and appropriate for a
32 local unit of government to maintain and operate a single,
33 searchable local public finance Internet website following its initial
34 design and development.

35 ¹[e.] f.¹ The State Treasurer shall make an annual report
36 regarding the implementation and administration of the program.

37 The report shall identify any guidelines that were made and
38 published by the State Treasurer during the year immediately
39 preceding the year in which the report is required to be made.

40 The report shall identify any templates and any prewritten or
41 custom computer software that the State Treasurer determined to be
42 necessary and appropriate to develop a single, searchable local
43 public finance Internet website during the year immediately
44 preceding the year in which the report is required to be made.

45 The report shall identify the information technology support and
46 services provided by the Chief Technology Officer and any other
47 clerical, technical, and other professional staff or assistants to each
48 unit of local government that maintains and operates a single,

1 searchable local public finance Internet website during the year
2 immediately preceding the year in which the report is required to be
3 made.

4 The report shall identify each local unit of government that used
5 the guidelines, templates and software, or the information
6 technology support and services made available through the
7 program to design and develop, maintain and operate a single,
8 searchable local public finance Internet website during the year
9 immediately preceding the year in which the report is required to be
10 made.

11 The report shall include any findings or recommendations that
12 may be made by the State to improve the effectiveness of the
13 program during the year immediately preceding the year in which
14 the report is required to be made.

15 The State Treasurer shall file the report required to be made in
16 accordance with this section with the Governor and the Legislature,
17 in accordance with section 2 of P.L.1991, c.164 (C.52:14-19.1), on
18 or before October 1 ¹**[, 2013]** of the calendar year beginning
19 January 1 next succeeding the effective date of P.L. _____,
20 c. (pending before the Legislature as this bill)¹ and on or before
21 October 1 each year thereafter.

22 ¹**[f.] g.**¹ Notwithstanding the provisions of the
23 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
24 seq.) to the contrary, the State Treasurer may adopt immediately
25 upon filing with the Office of Administrative Law such rules and
26 regulations as the State Treasurer determines to be necessary and
27 appropriate to effectuate the purposes of the program established in
28 accordance with this section, which rules and regulations shall be
29 effective for a period not to exceed 360 days following the effective
30 date of P.L. _____, c. (pending before the Legislature as this bill) and
31 may thereafter be amended, adopted, or readopted by the State
32 Treasurer in accordance with P.L.1968, c.410 (C.52:14B-1 et seq.).

33 ¹**[g.] h.**¹ As used in this section:

34 "Chief Technology Officer" means the person appointed by and
35 serving at the pleasure of the Governor who is responsible for the
36 day-to-day operations of the Office of Information Technology in,
37 but not of, the Department of the Treasury; and

38 "Local unit of government" includes a county, municipality,
39 local authority, school board, or other local instrumentality of the
40 State and ¹of¹ any public agency or agency as defined by section 1
41 of P.L.1995, c.23 (C.47:1A-1.1).

42
43 ²**[16.] 15.**² (New section) The Office of Information
44 Technology, the Division of Local Government Services in the
45 Department of Community Affairs, and the Government Records
46 Council shall conduct a data practices survey every five years. The
47 purpose of the survey shall be to review the collection, processing,

1 use and dissemination of information by public agencies, in light of
2 the recognized need for open government, with a focus on
3 ~~1~~¹ identifying privacy related issues. The survey
4 results shall include any recommended specific measures, including
5 boundaries for access to government records and legislation, to deal
6 with the issues and safeguard the privacy rights of individuals.

7 The Office of Information Technology shall establish an Office
8 of Privacy in, but not of, the Office of Information of Technology,
9 to assist in identification of privacy related issues and to bring those
10 issues to the attention of those charged with determining the
11 appropriate boundaries for access to government records, including
12 records custodians, the Government Records Council, and the
13 courts.

14

15 ²16. (New section) a. There is established a commission, to be
16 known as the Open Public Records and Transparency Act Study
17 Commission, to consist of 11 members.

18 The Commissioner of the Department of Community Affairs and
19 the Executive Director of the Government Records Council, or their
20 designees, shall serve as ex-officio members.

21 The Senate President shall appoint three members, no more than
22 two of whom shall be members of the same political party, one of
23 whom shall have experience with the news media, one of whom
24 shall have experience with the powers, functions, or duties of a
25 municipal clerk, and one of whom shall be a member of the general
26 public with an interest in an open and transparent government.

27 The Speaker of the General Assembly shall appoint three
28 members, no more than two of whom shall be members of the same
29 political party, one of whom shall be a member of the New Jersey
30 Press Association, one of whom shall have experience with State
31 government as a government records custodian, and one of whom
32 shall be a member of the general public with experience in State
33 government.

34 Three members shall be appointed by the Governor, no more
35 than two of whom shall be members of the same political party, one
36 of whom shall be a member of the general public interested in an
37 open and transparent government, and two of whom shall be
38 attorneys licensed in the State of New Jersey with knowledge and
39 experience with the law concerning the “Martin O’Shea Open
40 Public Records and Transparency Act,” P.L.1963, c.73 (C.47:1A-1
41 et seq.), one of whom shall have experience as an attorney in
42 matters affecting primarily local governments and one of whom
43 shall have experience as an attorney in matters affecting primarily
44 the State government.

45 A vacancy in the membership of the commission shall be filled
46 in the same manner in which the original appointment was made.

47 The members of the commission shall be appointed within 12
48 months of, and shall hold their initial organizational meeting on the

1 first day of the month occurring 24 months after, the effective date
2 of this act, P.L. , c. (pending before the Legislature as this bill).
3 The members shall elect one of the members to serve as chair and
4 one of the members to serve as vice-chair. The chair may appoint a
5 secretary, who need not be a member of the commission. The
6 members of the commission shall serve without compensation, but
7 shall be eligible for reimbursement for necessary and reasonable
8 expenses incurred in the performance of their official duties within
9 the limits of funds appropriated or otherwise made available to the
10 commission.

11 b. The commission shall meet at the call of the chair, but a
12 meeting of the commission may be called at the request of six of the
13 commission's members. The commission shall hold at least three
14 public hearings in different parts of the State and elicit testimony
15 from the public at such times and places as the chair shall designate.
16 Six members of the commission shall constitute a quorum.

17 c. It shall be the duty of the commission to, at a minimum:

18 (1) review implementation of the changes to the "Martin O'Shea
19 Open Public Records and Transparency Act," P.L.1963, c.73
20 (C.47:1A-1 et seq.), pursuant to this act, P.L. , c. (pending
21 before the Legislature as this bill), and the results of such
22 implementation; and

23 (2) make recommendations for legislation or such other action
24 as it deems appropriate with regard to improving, expanding, or
25 facilitating the "Martin O'Shea Open Public Records and
26 Transparency Act."

27 The commission may consider any other issues relating to the
28 "Martin O'Shea Open Public Records and Transparency Act" as the
29 commission may deem appropriate.

30 d. The commission shall be entitled to call to its assistance and
31 avail itself of the services of the employees of any State, county, or
32 municipal department, board, bureau, commission or agency, as it
33 may require and as may be available for its purposes, and to employ
34 clerical assistance and incur traveling and other miscellaneous
35 expenses as may be necessary in order to perform its duties, within
36 the limits of funds appropriated or otherwise made available to the
37 commission.

38 e. The commission shall submit a report containing its findings
39 and recommendations to the Legislature, pursuant to section 2 of
40 P.L.1991, c.164 (C.52:14-19.1), and the Governor within one year
41 of its initial organizational meeting and shall expire 30 days after
42 such submission.²

43

44 17. (New section) There is appropriated from the General Fund
45 to the Department of the Treasury such sums as may be necessary,
46 but not to exceed \$100,000, as shall be determined by the Director
47 of the Division of Budget and Accounting in the Department of the
48 Treasury, to effectuate the purposes of the program established in

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1 accordance with section ²**[15]** 14² of P.L. , c. (C.) (pending before
2 the Legislature as this bill).

3

4 ²18. (New Section) The Attorney General shall adopt a policy
5 governing the use of any mobile video recording system, as that
6 term is defined in section 1 of P.L.2014, c.54 (C.40A:14-118.1).²

7

8 ²**[18.]** 19.² This bill shall take effect ²**[120]** 180² days
9 following enactment.