

**SENATE, No. 1905**

**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

INTRODUCED FEBRUARY 22, 2018

**Sponsored by:**

**Senator JAMES BEACH**

**District 6 (Burlington and Camden)**

**Senator NILSA CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**SYNOPSIS**

Includes e-mail addresses in list of confidential items to be redacted from public records under OPRA.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/15/2018)**

1 AN ACT concerning public records and amending P.L.1995, c.23.

2

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

5

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

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

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

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

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

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

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

43 any memorandum, correspondence, notes, report or other  
44 communication prepared by, or for, the specific use of a member of  
45 the Legislature in the course of the member's official duties, except

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

**Matter underlined thus is new matter.**

1 that this provision shall not apply to an otherwise publicly-  
2 accessible report which is required by law to be submitted to the  
3 Legislature or its members;  
4 any copy, reproduction or facsimile of any photograph, negative  
5 or print, including instant photographs and videotapes of the body,  
6 or any portion of the body, of a deceased person, taken by or for the  
7 medical examiner at the scene of death or in the course of a post  
8 mortem examination or autopsy made by or caused to be made by  
9 the medical examiner except:  
10 when used in a criminal action or proceeding in this State which  
11 relates to the death of that person,  
12 for the use as a court of this State permits, by order after good  
13 cause has been shown and after written notification of the request  
14 for the court order has been served at least five days before the  
15 order is made upon the county prosecutor for the county in which  
16 the post mortem examination or autopsy occurred,  
17 for use in the field of forensic pathology or for use in medical or  
18 scientific education or research, or  
19 for use by any law enforcement agency in this State or any other  
20 state or federal law enforcement agency;  
21 criminal investigatory records;  
22 victims' records, except that a victim of a crime shall have access  
23 to the victim's own records;  
24 any written request by a crime victim for a record to which the  
25 victim is entitled to access as provided in this section, including,  
26 but not limited to, any law enforcement agency report, domestic  
27 violence offense report, and temporary or permanent restraining  
28 order;  
29 personal firearms records, except for use by any person  
30 authorized by law to have access to these records or for use by any  
31 government agency, including any court or law enforcement  
32 agency, for purposes of the administration of justice;  
33 personal identifying information received by the Division of Fish  
34 and Wildlife in the Department of Environmental Protection in  
35 connection with the issuance of any license authorizing hunting  
36 with a firearm. For the purposes of this paragraph, personal  
37 identifying information shall include, but not be limited to, identity,  
38 name, address, social security number, telephone number, fax  
39 number, driver's license number, email address, or social media  
40 address of any applicant or licensee;  
41 trade secrets and proprietary commercial or financial information  
42 obtained from any source. For the purposes of this paragraph, trade  
43 secrets shall include data processing software obtained by a public  
44 body under a licensing agreement which prohibits its disclosure;  
45 any record within the attorney-client privilege. This paragraph  
46 shall not be construed as exempting from access attorney or  
47 consultant bills or invoices except that such bills or invoices may be

S1905 BEACH, CRUZ-PEREZ

1 redacted to remove any information protected by the attorney-client  
2 privilege;  
3 administrative or technical information regarding computer  
4 hardware, software and networks which, if disclosed, would  
5 jeopardize computer security;  
6 emergency or security information or procedures for any  
7 buildings or facility which, if disclosed, would jeopardize security  
8 of the building or facility or persons therein;  
9 security measures and surveillance techniques which, if  
10 disclosed, would create a risk to the safety of persons, property,  
11 electronic data or software;  
12 information which, if disclosed, would give an advantage to  
13 competitors or bidders;  
14 information generated by or on behalf of public employers or  
15 public employees in connection with any sexual harassment  
16 complaint filed with a public employer or with any grievance filed  
17 by or against an individual or in connection with collective  
18 negotiations, including documents and statements of strategy or  
19 negotiating position;  
20 information which is a communication between a public agency  
21 and its insurance carrier, administrative service organization or risk  
22 management office;  
23 information which is to be kept confidential pursuant to court  
24 order;  
25 any copy of form DD-214, or that form, issued by the United  
26 States Government, or any other certificate of honorable discharge,  
27 or copy thereof, from active service or the reserves of a branch of  
28 the Armed Forces of the United States, or from service in the  
29 organized militia of the State, that has been filed by an individual  
30 with a public agency, except that a veteran or the veteran's spouse  
31 or surviving spouse shall have access to the veteran's own records;  
32 any copy of an oath of allegiance, oath of office or any  
33 affirmation taken upon assuming the duties of any public office, or  
34 that oath or affirmation, taken by a current or former officer or  
35 employee in any public office or position in this State or in any  
36 county or municipality of this State, including members of the  
37 Legislative Branch, Executive Branch, Judicial Branch, and all law  
38 enforcement entities, except that the full name, title, and oath date  
39 of that person contained therein shall not be deemed confidential;  
40 that portion of any document which discloses the social security  
41 number, credit card number, unlisted telephone number, e-mail  
42 address, or driver license number of any person; except for use by  
43 any government agency, including any court or law enforcement  
44 agency, in carrying out its functions, or any private person or entity  
45 acting on behalf thereof, or any private person or entity seeking to  
46 enforce payment of court-ordered child support; except with respect  
47 to the disclosure of driver information by the New Jersey Motor  
48 Vehicle Commission as permitted by section 2 of P.L.1997, c.188

1 (C.39:2-3.4); and except that a social security number contained in  
2 a record required by law to be made, maintained or kept on file by a  
3 public agency shall be disclosed when access to the document or  
4 disclosure of that information is not otherwise prohibited by State  
5 or federal law, regulation or order or by State statute, resolution of  
6 either or both houses of the Legislature, Executive Order of the  
7 Governor, rule of court or regulation promulgated under the  
8 authority of any statute or executive order of the Governor;

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

13 A list of persons identifying themselves as being in need of  
14 special assistance in the event of an emergency maintained by a  
15 county for public safety purposes pursuant to section 6 of P.L.2011,  
16 c.178 (C.App.A:9-43.13).

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

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

31 test questions, scoring keys and other examination data  
32 pertaining to the administration of an examination for employment  
33 or academic examination;

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

40 valuable or rare collections of books and/or documents obtained  
41 by gift, grant, bequest or devise conditioned upon limited public  
42 access;

43 information contained on individual admission applications; and  
44 information concerning student records or grievance or  
45 disciplinary proceedings against a student to the extent disclosure  
46 would reveal the identity of the student.

47 "Personal firearms record" means any information contained in a  
48 background investigation conducted by the chief of police, the

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

15 "Public agency" or "agency" means any of the principal  
16 departments in the Executive Branch of State Government, and any  
17 division, board, bureau, office, commission or other instrumentality  
18 within or created by such department; the Legislature of the State  
19 and any office, board, bureau or commission within or created by  
20 the Legislative Branch; and any independent State authority,  
21 commission, instrumentality or agency. The terms also mean any  
22 political subdivision of the State or combination of political  
23 subdivisions, and any division, board, bureau, office, commission or  
24 other instrumentality within or created by a political subdivision of  
25 the State or combination of political subdivisions, and any  
26 independent authority, commission, instrumentality or agency  
27 created by a political subdivision or combination of political  
28 subdivisions.

29 "Law enforcement agency" means a public agency, or part  
30 thereof, determined by the Attorney General to have law  
31 enforcement responsibilities.

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

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

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

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

44 "Victim of a crime" means a person who has suffered personal or  
45 psychological injury or death or incurs loss of or injury to personal  
46 or real property as a result of a crime, or if such a person is  
47 deceased or incapacitated, a member of that person's immediate  
48 family.

1 "Victims' rights agency" means a public agency, or part thereof,  
2 the primary responsibility of which is providing services, including  
3 but not limited to food, shelter, or clothing, medical, psychiatric,  
4 psychological or legal services or referrals, information and referral  
5 services, counseling and support services, or financial services to  
6 victims of crimes, including victims of sexual assault, domestic  
7 violence, violent crime, child endangerment, child abuse or child  
8 neglect, and the Victims of Crime Compensation Board, established  
9 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as  
10 the Victims of Crime Compensation Office pursuant to P.L.2007,  
11 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.  
12 (cf: P.L.2017, c.266, s.4)

13

14 2. This act shall take effect immediately.

15

16

17

STATEMENT

18

19 This bill revises the definitions section of what is commonly  
20 known as the Open Public Records Act (OPRA), N.J.S.A.47:1A-1  
21 et seq., to include e-mail addresses on the list of confidential items  
22 that must be redacted from any public record disclosed under the  
23 provisions of the act.