

ASSEMBLY, No. 528

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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SYNOPSIS

Prohibits release of home addresses of certain public safety employees by governmental entities.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the home addresses of certain public safety
2 employees and amending P.L.1995, c.23 and P.L.2001, c.404.

3

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

6

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

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

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

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

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

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

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

22 criminal investigatory records;

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

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

29 personal identifying information received by the Division of Fish
30 and Wildlife in the Department of Environmental Protection in
31 connection with the issuance of any license authorizing hunting
32 with a firearm. For the purposes of this paragraph, personal
33 identifying information shall include, but not be limited to, identity,
34 name, address, social security number, telephone number, fax
35 number, driver's license number, email address, or social media
36 address of any applicant or licensee;

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

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

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

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

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

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

15 test questions, scoring keys and other examination data
16 pertaining to the administration of an examination for employment
17 or academic examination;

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

24 valuable or rare collections of books and/or documents obtained
25 by gift, grant, bequest or devise conditioned upon limited public
26 access;

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

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

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

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

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

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

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

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

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

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

33 "Victims' rights agency" means a public agency, or part thereof,
34 the primary responsibility of which is providing services, including
35 but not limited to food, shelter, or clothing, medical, psychiatric,
36 psychological or legal services or referrals, information and referral
37 services, counseling and support services, or financial services to
38 victims of crimes, including victims of sexual assault, domestic
39 violence, violent crime, child endangerment, child abuse or child
40 neglect, and the Victims of Crime Compensation **【Board】** office,
41 established pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.).
42 (cf: P.L.2013, c.116, s.1)

43
44 2. Section 6 of P.L.2001, c.404 (C.47:1A-5) is amended to read
45 as follows:

46 6. a. The custodian of a government record shall permit the
47 record to be inspected, examined, and copied by any person during
48 regular business hours; or in the case of a municipality having a

1 population of 5,000 or fewer according to the most recent federal
2 decennial census, a board of education having a total district
3 enrollment of 500 or fewer, or a public authority having less than
4 \$10 million in assets, during not less than six regular business hours
5 over not less than three business days per week or the entity's
6 regularly-scheduled business hours, whichever is less; unless a
7 government record is exempt from public access by: P.L.1963, c.73
8 (C.47:1A-1 et seq.) as amended and supplemented; any other
9 statute; resolution of either or both houses of the Legislature;
10 regulation promulgated under the authority of any statute or
11 Executive Order of the Governor; Executive Order of the Governor;
12 Rules of Court; any federal law; federal regulation; or federal order.
13 Prior to allowing access to any government record, the custodian
14 thereof shall redact from that record any information which
15 discloses the social security number, credit card number, unlisted
16 telephone number, or driver license number of any person or the
17 home address of any corrections officer, parole officer, probation
18 officer, law enforcement officer, or retired law enforcement officer;
19 except for use by any government agency, including any court or
20 law enforcement agency, in carrying out its functions, or any
21 private person or entity acting on behalf thereof, or any private
22 person or entity seeking to enforce payment of court-ordered child
23 support; except with respect to the disclosure of driver information
24 by the New Jersey Motor Vehicle Commission as permitted by
25 section 2 of P.L.1997, c.188 (C.39:2-3.4); and except that a social
26 security number contained in a record required by law to be made,
27 maintained or kept on file by a public agency shall be disclosed
28 when access to the document or disclosure of that information is not
29 otherwise prohibited by State or federal law, regulation or order or
30 by State statute, resolution of either or both houses of the
31 Legislature, Executive Order of the Governor, rule of court or
32 regulation promulgated under the authority of any statute or
33 executive order of the Governor. Except where an agency can
34 demonstrate an emergent need, a regulation that limits access to
35 government records shall not be retroactive in effect or applied to
36 deny a request for access to a government record that is pending
37 before the agency, the council or a court at the time of the adoption
38 of the regulation.

39 b. A copy or copies of a government record may be purchased
40 by any person upon payment of the fee prescribed by law or
41 regulation. Except as otherwise provided by law or regulation, the
42 fee assessed for the duplication of a government record embodied in
43 the form of printed matter shall be \$0.05 per letter size page or
44 smaller, and \$0.07 per legal size page or larger. If a public agency
45 can demonstrate that its actual costs for duplication of a government
46 record exceed the foregoing rates, the public agency shall be
47 permitted to charge the actual cost of duplicating the record. The
48 actual cost of duplicating the record, upon which all copy fees are

1 based, shall be the cost of materials and supplies used to make a
2 copy of the record, but shall not include the cost of labor or other
3 overhead expenses associated with making the copy except as
4 provided for in subsection c. of this section. Access to electronic
5 records and non-printed materials shall be provided free of charge,
6 but the public agency may charge for the actual costs of any needed
7 supplies such as computer discs.

8 c. Whenever the nature, format, manner of collation, or volume
9 of a government record embodied in the form of printed matter to
10 be inspected, examined, or copied pursuant to this section is such
11 that the record cannot be reproduced by ordinary document copying
12 equipment in ordinary business size or involves an extraordinary
13 expenditure of time and effort to accommodate the request, the
14 public agency may charge, in addition to the actual cost of
15 duplicating the record, a special service charge that shall be
16 reasonable and shall be based upon the actual direct cost of
17 providing the copy or copies; provided, however, that in the case of
18 a municipality, rates for the duplication of particular records when
19 the actual cost of copying exceeds the foregoing rates shall be
20 established in advance by ordinance. The requestor shall have the
21 opportunity to review and object to the charge prior to it being
22 incurred.

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

38 e. Immediate access ordinarily shall be granted to budgets,
39 bills, vouchers, contracts, including collective negotiations
40 agreements and individual employment contracts, and public
41 employee salary and overtime information.

42 f. The custodian of a public agency shall adopt a form for the
43 use of any person who requests access to a government record held
44 or controlled by the public agency. The form shall provide space
45 for the name, address, and phone number of the requestor and a
46 brief description of the government record sought. The form shall
47 include space for the custodian to indicate which record will be
48 made available, when the record will be available, and the fees to be

1 charged. The form shall also include the following: (1) specific
2 directions and procedures for requesting a record; (2) a statement as
3 to whether prepayment of fees or a deposit is required; (3) the time
4 period within which the public agency is required by P.L.1963, c.73
5 (C.47:1A-1 et seq.) as amended and supplemented, to make the
6 record available; (4) a statement of the requestor's right to challenge
7 a decision by the public agency to deny access and the procedure
8 for filing an appeal; (5) space for the custodian to list reasons if a
9 request is denied in whole or in part; (6) space for the requestor to
10 sign and date the form; (7) space for the custodian to sign and date
11 the form if the request is fulfilled or denied. The custodian may
12 require a deposit against costs for reproducing documents sought
13 through an anonymous request whenever the custodian anticipates
14 that the information thus requested will cost in excess of \$5 to
15 reproduce.

16 g. A request for access to a government record shall be in
17 writing and hand-delivered, mailed, transmitted electronically, or
18 otherwise conveyed to the appropriate custodian. A custodian shall
19 promptly comply with a request to inspect, examine, copy, or
20 provide a copy of a government record. If the custodian is unable
21 to comply with a request for access, the custodian shall indicate the
22 specific basis therefor on the request form and promptly return it to
23 the requestor. The custodian shall sign and date the form and
24 provide the requestor with a copy thereof. If the custodian of a
25 government record asserts that part of a particular record is exempt
26 from public access pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.)
27 as amended and supplemented, the custodian shall delete or excise
28 from a copy of the record that portion which the custodian asserts is
29 exempt from access and shall promptly permit access to the
30 remainder of the record. If the government record requested is
31 temporarily unavailable because it is in use or in storage, the
32 custodian shall so advise the requestor and shall make arrangements
33 to promptly make available a copy of the record. If a request for
34 access to a government record would substantially disrupt agency
35 operations, the custodian may deny access to the record after
36 attempting to reach a reasonable solution with the requestor that
37 accommodates the interests of the requestor and the agency.

38 h. Any officer or employee of a public agency who receives a
39 request for access to a government record shall forward the request
40 to the custodian of the record or direct the requestor to the
41 custodian of the record.

42 i. Unless a shorter time period is otherwise provided by
43 statute, regulation, or executive order, a custodian of a government
44 record shall grant access to a government record or deny a request
45 for access to a government record as soon as possible, but not later
46 than seven business days after receiving the request, provided that
47 the record is currently available and not in storage or archived. In
48 the event a custodian fails to respond within seven business days

1 after receiving a request, the failure to respond shall be deemed a
2 denial of the request, unless the requestor has elected not to provide
3 a name, address or telephone number, or other means of contacting
4 the requestor. If the requestor has elected not to provide a name,
5 address, or telephone number, or other means of contacting the
6 requestor, the custodian shall not be required to respond until the
7 requestor reappears before the custodian seeking a response to the
8 original request. If the government record is in storage or archived,
9 the requestor shall be so advised within seven business days after
10 the custodian receives the request. The requestor shall be advised
11 by the custodian when the record can be made available. If the
12 record is not made available by that time, access shall be deemed
13 denied.

14 j. A custodian shall post prominently in public view in the part
15 or parts of the office or offices of the custodian that are open to or
16 frequented by the public a statement that sets forth in clear, concise
17 and specific terms the right to appeal a denial of, or failure to
18 provide, access to a government record by any person for
19 inspection, examination, or copying or for purchase of copies
20 thereof and the procedure by which an appeal may be filed.

21 k. The files maintained by the Office of the Public Defender
22 that relate to the handling of any case shall be considered
23 confidential and shall not be open to inspection by any person
24 unless authorized by law, court order, or the State Public Defender.
25 (cf: P.L.2010, c.75, s.5)
26

27 3. This act shall take effect immediately.
28
29

30 STATEMENT 31

32 This bill prohibits government entities from releasing the home
33 addresses of corrections officers, parole officers, probation officers,
34 as well as current and retired law enforcement officers. Under the
35 Open Public Records Act, P.L.1963, c.73 (C.47:1A-1 et seq.), this
36 information is considered a government record and is available to
37 the public.

38 The bill excludes the home addresses of these public safety
39 employees from the definition of "government record." The bill
40 also requires custodians of government records to redact the
41 addresses from any records prior to granting public access, unless
42 the information is sought for use by a governmental agency in
43 carrying out its functions, or a private person seeking to enforce a
44 child support order.