

ASSEMBLY, No. 2836

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

SYNOPSIS

Exempts handwritten signature from public disclosure; requires redaction when posted on Internet.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning public records, supplementing P.L.1963, c.73,
2 and amending P.L.1995, s.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 1. (New section) a. Any public agency, as that term is
8 defined in section 1 of P.L.1995, c.23 (C.47:1A-1.1), that posts or
9 makes available on an Internet website over which it exercises
10 control any document that contains the handwritten signature of any
11 person shall redact the signature from the copy or version of such
12 document that is available on the Internet prior to making the
13 document so available. The original document shall not be altered
14 pursuant to this subsection.

15 b. Upon written request by a person whose signature appears
16 on a document that was posted or made available on an Internet
17 website prior to the date of enactment of this section,
18 P.L. , c. (pending before the Legislature as this bill), a public
19 agency shall redact that person's signature from the copy or version
20 of such document that is available on the Internet within seven
21 business days from the date of receipt of the request.

22 c. This section shall not apply to any petition related to elective
23 office in this State or to any ballot question. This section shall not
24 apply to the signature of any person holding a public office,
25 employment, or position when the signature is on a government
26 record required to be made or maintained within the scope of that
27 person's office, employment, or position.

28 d. The Department of Community Affairs shall publish notice
29 of the requirements of this section on its Internet website.

30

31 2. Section 1 of P.L.1995, s.23 (C.47:1A-1.1) is amended to
32 read as follows:

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

35 "Biotechnology" means any technique that uses living
36 organisms, or parts of living organisms, to make or modify
37 products, to improve plants or animals, or to develop micro-
38 organisms for specific uses; including the industrial use of
39 recombinant DNA, cell fusion, and novel bioprocessing techniques.

40 "Custodian of a government record" or "custodian" means in the
41 case of a municipality, the municipal clerk and in the case of any
42 other public agency, the officer officially designated by formal
43 action of that agency's director or governing body, as the case may
44 be.

45 "Government record" or "record" means any paper, written or

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 printed book, document, drawing, map, plan, photograph,
2 microfilm, data processed or image processed document,
3 information stored or maintained electronically or by sound-
4 recording or in a similar device, or any copy thereof, that has been
5 made, maintained or kept on file in the course of his or its official
6 business by any officer, commission, agency or authority of the
7 State or of any political subdivision thereof, including subordinate
8 boards thereof, or that has been received in the course of his or its
9 official business by any such officer, commission, agency, or
10 authority of the State or of any political subdivision thereof,
11 including subordinate boards thereof. The terms shall not include
12 inter-agency or intra-agency advisory, consultative, or deliberative
13 material.

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

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

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

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

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

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

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

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

46 criminal investigatory records;

47 victims' records, except that a victim of a crime shall have access
48 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 which, if disclosed, would give an advantage to
37 competitors or bidders;

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

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

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

1 any copy of form DD-214, NGB-22, or that form, issued by the
2 United States Government, or any other certificate of honorable
3 discharge, or copy thereof, from active service or the reserves of a
4 branch of the Armed Forces of the United States, or from service in
5 the organized militia of the State, that has been filed by an
6 individual with a public agency, except that a veteran or the
7 veteran's spouse or surviving spouse shall have access to the
8 veteran's own records;

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

17 that portion of any document which discloses the social security
18 number, credit card number, handwritten signature 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 with respect to the
27 disclosure of a handwritten signature when necessary to comply
28 with any other provision of State or federal law or to a title
29 insurance company, as that term is defined in section 1 of P.L.1975,
30 c.106 (C.17:46B-1), or an agent thereof; and except that a social
31 security number contained in a record required by law to be made,
32 maintained or kept on file by a public agency shall be disclosed
33 when access to the document or disclosure of that information is not
34 otherwise prohibited by State or federal law, regulation or order or
35 by State statute, resolution of either or both houses of the
36 Legislature, Executive Order of the Governor, rule of court or
37 regulation promulgated under the authority of any statute or
38 executive order of the Governor;

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

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

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, established
41 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as
42 the Victims of Crime Compensation Office pursuant to P.L.2007,
43 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.
44 (cf: P.L.2019, c.255, s.4)

45

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

1 6. a. The custodian of a government record shall permit the
2 record to be inspected, examined, and copied by any person during
3 regular business hours; or in the case of a municipality having a
4 population of 5,000 or fewer according to the most recent federal
5 decennial census, a board of education having a total district
6 enrollment of 500 or fewer, or a public authority having less than
7 \$10 million in assets, during not less than six regular business hours
8 over not less than three business days per week or the entity's
9 regularly-scheduled business hours, whichever is less; unless a
10 government record is exempt from public access by: P.L.1963, c.73
11 (C.47:1A-1 et seq.) as amended and supplemented; any other
12 statute; resolution of either or both houses of the Legislature;
13 regulation promulgated under the authority of any statute or
14 Executive Order of the Governor; Executive Order of the Governor;
15 Rules of Court; any federal law; federal regulation; or federal order.
16 Prior to allowing access to any government record, the custodian
17 thereof shall redact from that record any information which
18 discloses the social security number, credit card number, unlisted
19 telephone number, handwritten signature, or driver license number
20 of any person; except for use by any government agency, including
21 any court or law enforcement agency, in carrying out its functions,
22 or any private person or entity acting on behalf thereof, or any
23 private person or entity seeking to enforce payment of court-ordered
24 child support; except with respect to the disclosure of driver
25 information by the New Jersey Motor Vehicle Commission as
26 permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4); and except
27 with respect to the disclosure of a handwritten signature when
28 necessary to comply with any other provision of State or federal law
29 or to a title insurance company, as that term is defined in section 1
30 of P.L.1975, c.106 (C.17:46B-1), or an agent thereof; and except
31 that a social security number contained in a record required by law
32 to be made, maintained or kept on file by a public agency shall be
33 disclosed when access to the document or disclosure of that
34 information is not otherwise prohibited by State or federal law,
35 regulation or order or by State statute, resolution of either or both
36 houses of the Legislature, Executive Order of the Governor, rule of
37 court or regulation promulgated under the authority of any statute or
38 executive order of the Governor. Except where an agency can
39 demonstrate an emergent need, a regulation that limits access to
40 government records shall not be retroactive in effect or applied to
41 deny a request for access to a government record that is pending
42 before the agency, the council or a court at the time of the adoption
43 of the regulation.

44 b. (1) A copy or copies of a government record may be
45 purchased by any person upon payment of the fee prescribed by law
46 or regulation. Except as otherwise provided by law or regulation
47 and except as provided in paragraph (2) of this subsection, the fee
48 assessed for the duplication of a government record embodied in the

1 form of printed matter shall be \$0.05 per letter size page or smaller,
2 and \$0.07 per legal size page or larger. If a public agency can
3 demonstrate that its actual costs for duplication of a government
4 record exceed the foregoing rates, the public agency shall be
5 permitted to charge the actual cost of duplicating the record. The
6 actual cost of duplicating the record, upon which all copy fees are
7 based, shall be the cost of materials and supplies used to make a
8 copy of the record, but shall not include the cost of labor or other
9 overhead expenses associated with making the copy except as
10 provided for in subsection c. of this section. Access to electronic
11 records and non-printed materials shall be provided free of charge,
12 but the public agency may charge for the actual costs of any needed
13 supplies such as computer discs.

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

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

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

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

1 agreements and individual employment contracts, and public
2 employee salary and overtime information.

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

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

47 h. Any officer or employee of a public agency who receives a
48 request for access to a government record shall forward the request

1 to the custodian of the record or direct the requestor to the
2 custodian of the record.

3 i. Unless a shorter time period is otherwise provided by
4 statute, regulation, or executive order, a custodian of a government
5 record shall grant access to a government record or deny a request
6 for access to a government record as soon as possible, but not later
7 than seven business days after receiving the request, provided that
8 the record is currently available and not in storage or archived. In
9 the event a custodian fails to respond within seven business days
10 after receiving a request, the failure to respond shall be deemed a
11 denial of the request, unless the requestor has elected not to provide
12 a name, address or telephone number, or other means of contacting
13 the requestor. If the requestor has elected not to provide a name,
14 address, or telephone number, or other means of contacting the
15 requestor, the custodian shall not be required to respond until the
16 requestor reappears before the custodian seeking a response to the
17 original request. If the government record is in storage or archived,
18 the requestor shall be so advised within seven business days after
19 the custodian receives the request. The requestor shall be advised
20 by the custodian when the record can be made available. If the
21 record is not made available by that time, access shall be deemed
22 denied.

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

30 k. The files maintained by the Office of the Public Defender
31 that relate to the handling of any case shall be considered
32 confidential and shall not be open to inspection by any person
33 unless authorized by law, court order, or the State Public Defender.
34 (cf: P.L.2014, c.19, s.3)
35

36 4. This act shall take effect 180 days after enactment, but a
37 public agency may take such anticipatory administrative action
38 prior thereto as may be necessary to effectuate the purposes of this
39 act.
40
41

42 STATEMENT

43
44 This bill exempts handwritten signatures from public disclosure
45 and requires redaction when documents containing handwritten
46 signatures are posted on the Internet.

47 The bill mandates that any public agency that posts or makes
48 available on the Internet a document that contains the handwritten

1 signature of any person is to redact the signature prior to making the
2 document available on the Internet. The original document may not
3 be altered pursuant to this bill. Upon written request by a person
4 whose signature appears on a document that was posted on the
5 Internet before enactment of the bill, the public agency is to redact
6 that person's signature within seven business days from receipt of
7 the request.

8 The bill does not apply to signatures on a petition related to
9 elective public office or for any ballot question. It also does not
10 apply to the signature of any person holding a public office,
11 employment, or position when the signature is on a government
12 record required to be made or maintained within the scope of that
13 person's office, employment, or position. The bill requires the
14 Department of Community Affairs to publish notice of the
15 requirements of this bill on its Internet website.

16 The bill also exempts handwritten signatures from disclosure
17 under the open public records law and requires redaction from a
18 public record when issued pursuant thereto.