

# SENATE, No. 180

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Senator KRISTIN M. CORRADO**

**District 40 (Bergen, Essex, Morris and Passaic)**

**SYNOPSIS**

Establishes Open Public Records Act Study Commission.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT establishing a commission to evaluate the open public  
2 records act.

3

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

6

7 1. The Legislature finds and declares that:

8 a. The State of New Jersey believes in an open and transparent  
9 government;

10 b. The open public records act, commonly referred to as  
11 OPRA, was adopted in 2001 to provide citizens with the ability to  
12 examine the records of their government;

13 c. Since 2001, administrative decisions and court rulings have  
14 been made to interpret how OPRA applies in day-to-day situations;

15 d. OPRA, at times, is challenging for the public to understand  
16 and for the records custodians to follow, such as when balancing the  
17 release of a document against a citizen's right to privacy;

18 e. OPRA has had a positive impact, yet there are issues with  
19 harassment of records custodians and frequent requests by  
20 commercial entities;

21 f. The public demands efficient and cost effective access to  
22 government records;

23 g. The actual, day-to-day effect of OPRA should be reviewed  
24 to ensure that the intent of OPRA is being achieved and is as fair as  
25 possible to all interested parties; and

26 h. The establishment of a study commission is appropriate to  
27 examine how OPRA is being implemented and utilized.

28

29 2. There is established a commission, to be known as the Open  
30 Public Records Act Study Commission, to consist of 14 members.  
31 The New Jersey Attorney General, the Commissioner of the  
32 Department of Community Affairs, and the Executive Director of  
33 the Government Records Council, or their designees, shall serve as  
34 ex-officio members. The Senate President shall appoint four  
35 members, not more than two of whom shall be a member of the  
36 same political party, one of whom shall be a member of law  
37 enforcement, one of whom shall have experience with commercial  
38 requests of government records, one of whom shall be a member of  
39 the general public with an interest in open and transparent  
40 government, and one of whom, with the recommendation of the  
41 New Jersey Association of Counties, shall have experience as a  
42 county records custodian. The Speaker of the General Assembly  
43 shall appoint four members, no more than two of whom shall be a  
44 member of the same political party, one of whom shall be a member  
45 of the New Jersey Press Association, one of whom shall be a  
46 member of the general public with experience advocating for  
47 privacy rights, one of whom shall be an attorney with knowledge  
48 and experience of the open public records act and representing local

1 governments, and one of whom, with the recommendation of the  
2 New Jersey League of Municipalities and the Municipal Clerks  
3 Association of New Jersey, shall be a municipal clerk. Three  
4 members shall be appointed by the Governor, no more than two of  
5 whom shall be a member of the same political party, one of whom  
6 shall be a State records custodian, one of whom shall be a member  
7 of the American Civil Liberties Union, and one of whom, with the  
8 recommendation of the New Jersey School Board Association, shall  
9 be a school board records custodian.

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11 3. The members of the commission shall be appointed and shall  
12 hold their initial organizational meeting within 45 days after the  
13 effective date of this act. The members shall elect one of the  
14 members to serve as chair and one of the members to serve as vice-  
15 chair. The chair may appoint a secretary, who need not be a  
16 member of the commission. The members of the commission shall  
17 serve without compensation, but shall be eligible for reimbursement  
18 for necessary and reasonable expenses incurred in the performance  
19 of their official duties within the limits of funds appropriated or  
20 otherwise made available to the commission.

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22 4. The commission shall meet at the call of the chair. The  
23 commission shall hold at least three public hearings in different  
24 parts of the State and elicit testimony from the public at such times  
25 and places as the chair shall designate. A meeting of the  
26 commission shall be called at the request of eight of the  
27 commission's members and eight members of the commission shall  
28 constitute a quorum at any meeting thereof.

29

30 5. It shall be the duty of the commission to, at a minimum:

31 a. review OPRA and examine how the statute compares with  
32 actual operation and use;

33 b. evaluate how advancements in technology, administrative  
34 decisions, and court rulings have impacted OPRA;

35 c. analyze how OPRA requests are balanced with the public's  
36 right to privacy;

37 d. examine how OPRA has been used for commercial,  
38 marketing, business, and research purposes;

39 e. study the advantages and disadvantages of expanding access  
40 to law enforcement records;

41 f. research public records statutes and their operation and use,  
42 both positive and negative, of other states;

43 g. consider such other matters relating to OPRA as the  
44 members of the commission may deem appropriate; and

45 h. make recommendations for legislation or such other action  
46 as it deems appropriate with regard to improving, expanding, and  
47 facilitating OPRA.

1 6. The commission, as it deems appropriate, may create  
2 subcommittees to assist it in the completion of its duties.

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4 7. The commission shall be entitled to call to its assistance and  
5 avail itself of the services of the employees of any State, county, or  
6 municipal department, board, bureau, commission or agency, as it  
7 may require and as may be available for its purposes, and to employ  
8 stenographic and clerical assistance and incur traveling and other  
9 miscellaneous expenses as may be necessary in order to perform its  
10 duties, within the limits of funds appropriated or otherwise made  
11 available to the commission.

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13 8. The commission shall report its findings and  
14 recommendations to the Legislature, pursuant to section 2 of  
15 P.L.1991, c.164 (C.52:14-19.1), and the Governor within one year  
16 of its initial organizational meeting.

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18 9. This act shall take effect immediately and shall expire on the  
19 1st day of the 13th month after the commission submits its findings  
20 and recommendations to the Governor and the Legislature in order  
21 to respond to questions of the Governor or the Legislature, or to  
22 provide clarification regarding the commission's findings and  
23 recommendations.

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STATEMENT

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28 This bill establishes a 14 member commission, to be known as  
29 the Open Public Records Act Study Commission. The study  
30 commission will examine how the open public records act, OPRA,  
31 is implemented and utilized in actual day-to-day situations.

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At a minimum, the commission will:

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review OPRA and examine how the statute compares with actual  
34 operation and use;

35

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36 decisions, and court rulings have impacted OPRA;

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analyze how OPRA requests are balanced with the public's right  
38 to privacy;

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40 business, and research purposes;

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44 positive and negative, of other states;

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46 the commission may deem appropriate; and

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1       make recommendations for legislation or such other action as it  
2       deems appropriate with regard to improving, expanding, and  
3       facilitating OPRA.

4       The commission may create subcommittees as it deems  
5       appropriate to assist it in the completion of its duties.

6       The commission will report its findings and recommendations to  
7       the Legislature and the Governor within one year of its initial  
8       organizational meeting. The commission will expire one year after  
9       the commission submits its findings and recommendations to the  
10      Governor and the Legislature in order to respond to questions of the  
11      Governor or the Legislature, or to provide clarification regarding  
12      the commission's findings and recommendations..