

SENATE, No. 2069

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Senator JAMES BEACH

District 6 (Burlington and Camden)

Senator NILSA I. CRUZ-PEREZ

District 5 (Camden and Gloucester)

SYNOPSIS

Exempts certain health information contained in 9-1-1 calls from definition of government record.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 4/13/2020)

1 AN ACT concerning 9-1-1 calls 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 any part of a 9-1-1 audio recording or transcript of a 9-1-1 call
42 that discloses a person's health status; medical conditions including
43 diseases, illnesses, disorders, diagnoses, disabilities, or injuries;
44 receipt of health care services or treatments; medical history;
45 genetic information; or current health insurance contract, policy, or
46 plan information;

47 trade secrets and proprietary commercial or financial information
48 obtained from any source. For the purposes of this paragraph, trade

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

1 out its functions, or any private person or entity acting on behalf
2 thereof, or any private person or entity seeking to enforce payment
3 of court-ordered child support; except with respect to the disclosure
4 of driver information by the New Jersey Motor Vehicle
5 Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-
6 3.4); and except that a social security number contained in a record
7 required by law to be made, maintained or kept on file by a public
8 agency shall be disclosed when access to the document or
9 disclosure of that information is not otherwise prohibited by State
10 or federal law, regulation or order or by State statute, resolution of
11 either or both houses of the Legislature, Executive Order of the
12 Governor, rule of court or regulation promulgated under the
13 authority of any statute or executive order of the Governor;

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

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

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

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

36 test questions, scoring keys and other examination data
37 pertaining to the administration of an examination for employment
38 or academic examination;

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

45 valuable or rare collections of books and/or documents obtained
46 by gift, grant, bequest or devise conditioned upon limited public
47 access;

1 information contained on individual admission applications; and
2 information concerning student records or grievance or
3 disciplinary proceedings against a student to the extent disclosure
4 would reveal the identity of the student.

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

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

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.
19 (cf: P.L.2017, c.266, s.4)

20

21 2. This act shall take effect immediately.

22

23

24 STATEMENT

25

26 Under current law, 9-1-1 audio recordings and transcripts are
27 generally considered government records which are available for
28 inspection, copying, and examination by the public.

29 This bill would make confidential any part of a 9-1-1 audio
30 recording or transcript that disclosed a person's health status,
31 medical conditions, health care services or treatments, medical
32 history, genetic information, or current health insurance plan
33 information by excluding it from the definition of a government
34 record.