SENATE, No. 3021

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED OCTOBER 19, 2020

Sponsored by:
Senator ROBERT W. SINGER
District 30 (Monmouth and Ocean)
Senator ANTHONY M. BUCCO
District 25 (Morris and Somerset)

Co-Sponsored by:
Senators Corrado and Diegnan

SYNOPSIS

"Daniel's Law;" Prohibits disclosure of home address or unpublished telephone number of certain law enforcement officers, judicial officers and prosecutors; establishes crime and civil action for disclosing such information.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 10/22/2020)

AN ACT prohibiting disclosure of certain information regarding certain law enforcement officers, judicial officers and prosecutors, designated as Daniel's Law, and amending P.L.1995, c.23, P.L.2001, c.404, and the title and body of P.L.2015, c.226, and supplementing Title 47 of the Revised Statutes.

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

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

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

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

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

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

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

information received by a member of the Legislature from a constituent or information held by a member of the Legislature concerning a constituent, including but not limited to information in written form or contained in any e-mail or computer data base, or in

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 <u>thus</u> is new matter.

any telephone record whatsoever, unless it is information the constituent is required by law to transmit;

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

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

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

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

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

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

criminal investigatory records;

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

any written request by a crime victim for a record to which the victim is entitled to access as provided in this section, including, but not limited to, any law enforcement agency report, domestic violence offense report, and temporary or permanent restraining order;

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

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

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

secrets shall include data processing software obtained by a public body under a licensing agreement which prohibits its disclosure;

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

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

emergency or security information or procedures for any buildings or facility which, if disclosed, would jeopardize security of the building or facility or persons therein;

security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons, property, electronic data or software;

information which, if disclosed, would give an advantage to competitors or bidders;

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

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

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

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

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

that portion of any document which discloses the social security number, credit card number, unlisted telephone number or driver license number of any person, or that portion of any document

which discloses the home address, whether a primary or secondary residence, of any active or retired law enforcement officer, active or retired federal, State, or municipal judicial officer, or active or retired federal, State, county or municipal prosecutor; except for use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf thereof, or any private person or entity seeking to enforce payment of court-ordered child support; except with respect to the disclosure of driver information by the New Jersey Motor Vehicle Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4); and except that a social security number contained in a record required by law to be made, maintained or kept on file by a public agency shall be disclosed when access to the document or disclosure of that information is not otherwise prohibited by State or federal law, regulation or order or by State statute, resolution of either or both houses of the Legislature, Executive Order of the Governor, rule of court or regulation promulgated under the authority of any statute or executive order of the Governor;

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

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

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

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

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

records of pursuit of charitable contributions or records containing the identity of a donor of a gift if the donor requires non-disclosure of the donor's identity as a condition of making the gift provided that the donor has not received any benefits of or from the

institution of higher education in connection with such gift other than a request for memorialization or dedication;

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

information contained on individual admission applications; and

information concerning student records or grievance or disciplinary proceedings against a student to the extent disclosure would reveal the identity of the student.

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

"Public agency" or "agency" means any of the principal departments in the Executive Branch of State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department; the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch; and any independent State authority, commission, instrumentality or agency. The terms also mean any political subdivision of the State or combination of political subdivisions, and any division, board, bureau, office, commission or other instrumentality within or created by a political subdivision of the State or combination of political subdivisions, and any independent authority, commission, instrumentality or agency created by a political subdivision or combination of political subdivisions.

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

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

“Judicial officer” means the Chief Justice or an Associate Justice of the United States Supreme Court, a judge of the United States Court of Appeals, a judge of a federal district court, including a magistrate judge, a judge of any other court established by federal

law, the Chief Justice or an Associate Justice of the New Jersey Supreme Court, a judge of the Superior Court, a judge of the Tax Court, a judge of a municipal court, a judge of the Office of Administrative Law, a judge of the Division of Workers' Compensation, or a judge of any other court or who handles proceedings in the executive branch of the State government or a local government established by State law.

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

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

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

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

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

(cf: P.L.2019, c.255, s.4)

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

6. a. The custodian of a government record shall permit the record to be inspected, examined, and copied by any person during regular business hours; or in the case of a municipality having a population of 5,000 or fewer according to the most recent federal decennial census, a board of education having a total district enrollment of 500 or fewer, or a public authority having less than $10 million in assets, during not less than six regular business hours over not less than three business days per week or the entity's regularly-scheduled business hours, whichever is less; unless a government record is exempt from public access by: P.L.1963, c.73

(C.47:1A-1 et seq.) as amended and supplemented; any other statute; resolution of either or both houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; Executive Order of the Governor; Rules of Court; any federal law; federal regulation; or federal order. Prior to allowing access to any government record, the custodian thereof shall redact from that record any information which discloses the social security number, credit card number, unlisted telephone number, or driver license number of any person, or the home address, whether a primary or secondary residence, of any active or retired law enforcement officer, active or retired federal, State, or municipal judicial officer, or active or retired federal, State, county, or municipal prosecutor; except for use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf thereof, or any private person or entity seeking to enforce payment of court-ordered child support; except with respect to the disclosure of driver information by the New Jersey Motor Vehicle Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4); and except that a social security number contained in a record required by law to be made, maintained or kept on file by a public agency shall be disclosed when access to the document or disclosure of that information is not otherwise prohibited by State or federal law, regulation or order or by State statute, resolution of either or both houses of the Legislature, Executive Order of the Governor, rule of court or regulation promulgated under the authority of any statute or executive order of the Governor. Except where an agency can demonstrate an emergent need, a regulation that limits access to government records shall not be retroactive in effect or applied to deny a request for access to a government record that is pending before the agency, the council or a court at the time of the adoption of the regulation.

b. (1) A copy or copies of a government record may be purchased by any person upon payment of the fee prescribed by law or regulation. Except as otherwise provided by law or regulation and except as provided in paragraph (2) of this subsection, the fee assessed for the duplication of a government record embodied in the form of printed matter shall be $0.05 per letter size page or smaller, and $0.07 per legal size page or larger. If a public agency can demonstrate that its actual costs for duplication of a government record exceed the foregoing rates, the public agency shall be permitted to charge the actual cost of duplicating the record. The actual cost of duplicating the record, upon which all copy fees are based, shall be the cost of materials and supplies used to make a copy of the record, but shall not include the cost of labor or other overhead expenses associated with making the copy except as provided for in subsection c. of this section. Access to electronic records and non-printed materials shall be provided free of charge,

but the public agency may charge for the actual costs of any needed supplies such as computer discs.

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

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

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

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

f. The custodian of a public agency shall adopt a form for the use of any person who requests access to a government record held or controlled by the public agency. The form shall provide space for the name, address, and phone number of the requestor and a brief description of the government record sought. The form shall include space for the custodian to indicate which record will be made available, when the record will be available, and the fees to be charged. The form shall also include the following: (1) specific directions and procedures for requesting a record; (2) a statement as

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

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

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

i. (1) Unless a shorter time period is otherwise provided by statute, regulation, or executive order, a custodian of a government record shall grant access to a government record or deny a request for access to a government record as soon as possible, but not later than seven business days after receiving the request, provided that the record is currently available and not in storage or archived. In the event a custodian fails to respond within seven business days after receiving a request, the failure to respond shall be deemed a denial of the request, unless the requestor has elected not to provide

a name, address or telephone number, or other means of contacting the requestor. If the requestor has elected not to provide a name, address, or telephone number, or other means of contacting the requestor, the custodian shall not be required to respond until the requestor reappears before the custodian seeking a response to the original request. If the government record is in storage or archived, the requestor shall be so advised within seven business days after the custodian receives the request. The requestor shall be advised by the custodian when the record can be made available. If the record is not made available by that time, access shall be deemed denied.

(2) During a period declared pursuant to the laws of this State as a state of emergency, public health emergency, or state of local disaster emergency, the deadlines by which to respond to a request for, or grant or deny access to, a government record under paragraph (1) of this subsection or subsection e. of this section shall not apply, provided, however, that the custodian of a government record shall make a reasonable effort, as the circumstances permit, to respond to a request for access to a government record within seven business days or as soon as possible thereafter.

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

k. The files maintained by the Office of the Public Defender that relate to the handling of any case shall be considered confidential and shall not be open to inspection by any person unless authorized by law, court order, or the State Public Defender.

(cf: P.L.2020, c.10, s.1)

3. The title of P.L.2015, c.226 is amended to read as follows:

AN ACT concerning certain information regarding **[**law enforcement**]** <u>certain public</u> officers and supplementing Title 2C of the New Jersey Statutes and Titles 47 and 56 of the Revised Statutes.

(cf: P.L.2015, c.226, title)

4. Section 2 of P.L.2015, c.226 (C.47:1-17) is amended to read as follows:

2. A State or local governmental agency shall not knowingly post or publish on the Internet the home address or unpublished home telephone number of any <u>active or</u> retired law enforcement officer **[**or law enforcement officer**]**, <u>any active or retired federal, State, or municipal judicial officer, as defined by section 1 of P.L.1995, c.23 (C.47:1A-1.1), or any active or retired federal, State,</u>

county or municipal prosecutor without first obtaining the written permission of that [law enforcement officer or retired law enforcement officer] individual.
(cf: P.L.2015, c.226, s.2)

5. Section 1 of P.L.2015, c.226 (C.2C:20-31.1) is amended to read as follows:

1. A person shall not knowingly, with purpose to expose another to harassment or risk of harm to life or property, or in reckless disregard of the probability of such exposure, post or publish on the Internet the home address or unpublished home telephone number of any active or retired law enforcement officer, [law enforcement officer] any active or retired federal, State, or municipal judicial officer, as defined by section 1 of P.L.1995, c.23 (C.47:1A-1.1), or any active or retired federal, State, county or municipal prosecutor, or the spouse or child [of a law enforcement officer] thereof. A reckless violation of this section is a crime of the fourth degree. A purposeful violation of this section is a crime of the third degree.
(cf: P.L.2015, c.226, s.1)

6. Section 3 of P.L.2015, c.226 (C.56:8-166.1) is amended to read as follows:

3. a. A person, business, or association shall not disclose on the Internet the home address or unpublished home telephone number of [a law enforcement officer or] an active or retired law enforcement officer, an active or retired federal, State, or municipal judicial officer, as defined by section 1 of P.L.1995, c.23 (C.47:1A-1.1), or an active or retired federal, State, county or municipal prosecutor under circumstances in which a reasonable person would believe that providing that information would expose another to harassment or risk of harm to life or property.

b. A person, business, or association that violates subsection a. of this section shall be liable to the [law enforcement officer, retired law enforcement officer, or any other person residing at the home address of the law enforcement officer or retired law enforcement officer,] aggrieved person who may bring a civil action in the Superior Court.

c. The court may award:

(1) actual damages, but not less than liquidated damages computed at the rate of $1,000 for each violation of this act;

(2) punitive damages upon proof of willful or reckless disregard of the law;

(3) reasonable attorney's fees and other litigation costs reasonably incurred; and

(4) any other preliminary and equitable relief as the court determines to be appropriate.

d. For the purposes of this section, "disclose" shall mean to solicit, sell, manufacture, give, provide, lend, trade, mail, deliver, transfer, publish, distribute, circulate, disseminate, present, exhibit, advertise or offer.

(cf: P.L.2015, c.226, s.3)

7. (New section) a. An active or retired law enforcement officer, an active or retired federal, State, or municipal judicial officer, as defined by section 1 of P.L.1995, c.23 (C.47:1A-1.1), or an active or retired federal, State, county or municipal prosecutor whose home address or unpublished telephone number or whose immediate family member's name, home address or unpublished telephone number is disclosed on the Internet by any person, business, or association may request that the person, business, or association that disclosed that information refrain from such disclosure and remove that information from the Internet.

b. A request to refrain from disclosure and remove information from the Internet pursuant to subsection a. of this section shall be made in writing, addressed to the person, business, or association that disclosed the information, and may be made by the law enforcement officer, the federal, State, or municipal judicial officer, as defined by section 1 of P.L.1995, c.23 (C.47:1A-1.1), or the federal, State, county or municipal prosecutor, as appropriate, or by the employer of the law enforcement officer, judicial officer or prosecutor with the consent of that individual.

c. Upon receipt of a written request to refrain from disclosure and remove information from the Internet pursuant to this section, the person, business or association that made such disclosure shall have 72 hours to remove that information from the Internet and shall not disclose that information to any other person, business, or association through any medium.

d. An active or retired law enforcement officer, an active or retired federal, State, or municipal judicial officer, as defined by section 1 of P.L.1995, c.23 (C.47:1A-1.1), or an active or retired federal, State, county, or municipal prosecutor whose home address or unpublished telephone number or whose immediate family member's name, home address or unpublished telephone number was not timely removed from the Internet in violation of the provisions of subsection c. of this section or was disclosed on the Internet subsequent to receipt of a request pursuant to subsection b. of this section may bring an action seeking injunctive or declaratory relief in the Superior Court. If the court grants injunctive or declaratory relief, the person, business, or association responsible for the violation shall be required to pay reasonable attorney's fees and other litigation costs reasonably incurred by the law enforcement officer, judicial officer, or prosecutor, as appropriate.

e. For purposes of this section, "immediate family member" shall include a spouse, child or parent of a law enforcement officer,

a judicial officer, as defined by section 1 of P.L.1995, c.23 (C.47:1A-1.1), or a federal, State, county, or municipal prosecutor, or any blood relative of a law enforcement officer, a judicial officer or a prosecutor or of that individual's spouse who lives in the same residence as the law enforcement officer, judicial officer or prosecutor.

8. (New section) This act shall be liberally construed in order to accomplish its purpose and the public policy of this State, which is to enhance the safety and security of certain public officials in the justice system, including law enforcement officers, judicial officers and prosecutors who served or have served the people of New Jersey, and the immediate family members of these individuals, to foster the ability of these public servants who perform critical roles in the justice system to carry out their official duties without fear of personal reprisal from affected individuals related to the performance of their public functions.

9. (New section) If any section, subsection, clause, sentence, paragraph, or part of this act, P.L. , c. (pending before the Legislature as this bill), or the application thereof to any person or circumstances, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act, P.L. , c. (pending before the Legislature as this bill).

10. This act shall take effect immediately.

STATEMENT

This bill prohibits persons, State and local agencies, and businesses from posting or publishing on the Internet the home addresses or unpublished home telephone numbers of active or retired judicial officers and State, county, or municipal prosecutors. Current law already prohibits disclosure of the home addresses or unpublished home telephone numbers of active or retired law enforcement officers.

The bill adds active or retired judicial officers and active or retired prosecutors to the provisions of section 1 of P.L.2015, c.226 (C.2C:20-31.1). This statute currently makes it a crime to knowingly, with purpose to expose another to harassment or risk of harm to life or property, or in reckless disregard of the probability of this exposure, post or publish on the Internet the home address or unpublished telephone number of an active or retired law enforcement officer or the officer's spouse or child. A reckless violation of the statute is a crime of the fourth degree. A purposeful violation is a crime of the third degree. A crime of the fourth degree is punishable by a term of imprisonment of up to 18 months, a fine of up to $10,000, or both; a

crime of the third degree, by a term of three to five years, a fine of up to $15,000, or both.

The bill also amends section 2 of P.L.2015, c.226 (C.47:1-17), which prohibits State or local agencies from knowingly posting or publishing on the Internet the home address or telephone number of an active or retired law enforcement officer without written permission, to add active or retired judicial officers and State, county, or municipal prosecutors.

Currently, under subsection a. of section 3 of P.L.2015, c.226 (C.56:8-166.1), persons, businesses, and associations are prohibited from disclosing on the Internet the home address or unpublished home telephone number of an active or retired law enforcement officer under circumstances in which a reasonable person would believe that providing that information would expose another to harassment or risk of harm to life or property. This bill adds active or retired judicial officers and active or retired federal, State, county, or municipal prosecutors to the provisions of the statute.

The bill also adds active or retired judicial officers and active or retired prosecutors to the provisions of subsection b. of section 3 of P.L.2015, c.226 (C.56:8-166.1), which currently authorizes a civil action for disclosing the home address or unpublished home telephone number of an active or retired law enforcement officer in violation of the provisions of subsection a. of the statute (as set forth above). Under subsection b. of the statute as amended by the bill, a person, business, or association that discloses this information under these circumstances is liable to the aggrieved person, who may bring a civil action in Superior Court. The statute provides that the court may award: (1) actual damages, but not less than liquidated damages computed at the rate of $1,000 for each violation; (2) punitive damages upon proof of willful or reckless disregard of the law; (3) reasonable attorney's fees and other litigation costs reasonably incurred; and (4) any other preliminary and equitable relief as the court determines to be appropriate.

In addition, the bill amends the law commonly known as the "open public records act" (OPRA). The bill excludes those portions of any document identifying a law enforcement officer's, judicial officer's, or prosecutor's address from the definition of "government record" pursuant to OPRA, and requires custodians of government records to redact a law enforcement officer's, judicial officer's, or prosecutor's address from any record prior to granting access to the record to a member of the public.

Under the bill, an active or retired law enforcement officer, an active or retired federal, State, or municipal judicial officer, or an active or retired federal, State, county or municipal prosecutor whose home address or unpublished telephone number or whose immediate family member's name, home address or unpublished telephone number is disclosed on the Internet by any person, business, or association may request that the person, business, or association that

disclosed that information refrain from such disclosure and remove that information from the Internet. A request to refrain from disclosure and remove information from the Internet under the bill would be required to be made in writing, addressed to the person, business, or association that disclosed the information, and may be made by the law enforcement officer, judicial officer, or prosecutor, as appropriate, or by the individual's employer with the consent of the individual. Upon receipt of the written request, the person, business, or association would have 72 hours to remove the information from the Internet and would be barred from disclosing the information to any other person, business, or association through any medium.

The bill provides that a person whose home address or unpublished telephone number or whose immediate family member's name, home address or unpublished telephone number was not timely removed from the Internet or was disclosed subsequent to receipt of a request to refrain from disclosure and remove the information may bring an action seeking injunctive or declaratory relief in the Superior Court. If the court grants injunctive or declaratory relief, the person, business, or association responsible for the violation would be required to pay reasonable attorney's fees and other litigation costs reasonably incurred by the law enforcement officer, judicial officer, or prosecutor, as appropriate. The bill defines "immediate family member" as including a spouse, child or parent of a law enforcement officer, a judicial officer, or a federal, State, county, or municipal prosecutor, or any blood relative of a law enforcement officer, a judicial officer or a prosecutor or of that individual's spouse who lives in the same residence as the law enforcement officer, judicial officer or prosecutor.

The bill defines "disclose" as soliciting, selling, manufacturing, giving, providing, lending, trading, mailing, delivering, transferring, publishing, distributing, circulating, disseminating, presenting, exhibiting, advertising or offering.

The bill defines "judicial officer" as the Chief Justice or an Associate Justice of the United States Supreme Court, a judge of the United States Court of Appeals, a judge of a federal district court, including a magistrate judge, a judge of any other court established by federal law, the Chief Justice or an Associate Justice of the New Jersey Supreme Court, a judge of the Superior Court, a judge of the Tax Court, a judge of a municipal court, a judge of the Office of Administrative Law, a judge of the Division of Workers' Compensation, or a judge of any other court or who handles proceedings in the executive branch of the State government or a local government established by State law.

This bill is designated as "Daniel's law" in honor of the tragic killing of Daniel Anderl in July 2020. Daniel, the son of a United States District Court judge, was shot and killed in the family home by a person who had a fixation with the judge. The person had access to the judge because the judge's home address was public.