

ASSEMBLY, No. 3145

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MARCH 7, 2022

Sponsored by:

Assemblyman WILLIAM F. MOEN, JR.

District 5 (Camden and Gloucester)

Assemblyman JOE DANIELSEN

District 17 (Middlesex and Somerset)

SYNOPSIS

Prohibits open public records requests for commercial purposes.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/24/2022)

1 AN ACT concerning open public records requests for commercial
2 purposes, and amending P.L.1995, c.23, and P.L.2001, c.404.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended to read
8 as follows:

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

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

16 "Commercial purpose" means the direct or indirect use of any
17 part of a government record for sale, resale, solicitation, rent or
18 lease of a service, or any use by which the user expects a profit
19 either through commission, salary, or fee. "Commercial purpose"
20 shall not include using, distributing, gathering, procuring,
21 transmitting, compiling, editing, disseminating, or publishing of
22 information or data by the news media, or any parent, subsidiary, or
23 affiliate of any news media, as defined by section 2 of P.L.1977,
24 c.253 (C.2A:84A-21a), or by any news, journalistic, educational,
25 scientific, scholarly, or governmental organization.

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

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

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 A government record shall not include the following information
2 which is deemed to be confidential for the purposes of P.L.1963,
3 c.73 (C.47:1A-1 et seq.) as amended and supplemented:
4 information received by a member of the Legislature from a
5 constituent or information held by a member of the Legislature
6 concerning a constituent, including but not limited to information in
7 written form or contained in any e-mail or computer data base, or in
8 any telephone record whatsoever, unless it is information the
9 constituent is required by law to transmit;
10 any memorandum, correspondence, notes, report or other
11 communication prepared by, or for, the specific use of a member of
12 the Legislature in the course of the member's official duties, except
13 that this provision shall not apply to an otherwise publicly-
14 accessible report which is required by law to be submitted to the
15 Legislature or its members;
16 any copy, reproduction or facsimile of any photograph, negative
17 or print, including instant photographs and videotapes of the body,
18 or any portion of the body, of a deceased person, taken by or for the
19 medical examiner at the scene of death or in the course of a post
20 mortem examination or autopsy made by or caused to be made by
21 the medical examiner except:
22 when used in a criminal action or proceeding in this State which
23 relates to the death of that person,
24 for the use as a court of this State permits, by order after good
25 cause has been shown and after written notification of the request
26 for the court order has been served at least five days before the
27 order is made upon the county prosecutor for the county in which
28 the post mortem examination or autopsy occurred,
29 for use in the field of forensic pathology or for use in medical or
30 scientific education or research, or
31 for use by any law enforcement agency in this State or any other
32 state or federal law enforcement agency;
33 criminal investigatory records;
34 the portion of any criminal record concerning a person's
35 detection, apprehension, arrest, detention, trial or disposition for
36 unlawful manufacturing, distributing, or dispensing, or possessing
37 or having under control with intent to manufacture, distribute, or
38 dispense, marijuana or hashish in violation of paragraph (11) of
39 subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or
40 hashish in violation of paragraph (12) of subsection b. of that
41 section, or a violation of either of those paragraphs and a violation
42 of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or
43 subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for
44 distributing, dispensing, or possessing, or having under control with
45 intent to distribute or dispense, on or within 1,000 feet of any
46 school property, or on or within 500 feet of the real property
47 comprising a public housing facility, public park, or public
48 building, or for obtaining, possessing, using, being under the

1 influence of, or failing to make lawful disposition of marijuana or
2 hashish in violation of paragraph (3) or (4) of subsection a., or
3 subsection b., or subsection c. of N.J.S.2C:35-10, or for a violation
4 of any of those provisions and a violation of N.J.S.2C:36-2 for
5 using or possessing with intent to use drug paraphernalia with that
6 marijuana or hashish;

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

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

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

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

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

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

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

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

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

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

46 information generated by or on behalf of public employers or
47 public employees in connection with any sexual harassment
48 complaint filed with a public employer or with any grievance filed

1 by or against an individual or in connection with collective
2 negotiations, including documents and statements of strategy or
3 negotiating position;
4 information which is a communication between a public agency
5 and its insurance carrier, administrative service organization or risk
6 management office;
7 information which is to be kept confidential pursuant to court
8 order;
9 any copy of form DD-214, NGB-22, or that form, issued by the
10 United States Government, or any other certificate of honorable
11 discharge, or copy thereof, from active service or the reserves of a
12 branch of the Armed Forces of the United States, or from service in
13 the organized militia of the State, that has been filed by an
14 individual with a public agency, except that a veteran or the
15 veteran's spouse or surviving spouse shall have access to the
16 veteran's own records;
17 any copy of an oath of allegiance, oath of office or any
18 affirmation taken upon assuming the duties of any public office, or
19 that oath or affirmation, taken by a current or former officer or
20 employee in any public office or position in this State or in any
21 county or municipality of this State, including members of the
22 Legislative Branch, Executive Branch, Judicial Branch, and all law
23 enforcement entities, except that the full name, title, and oath date
24 of that person contained therein shall not be deemed confidential;
25 that portion of any document which discloses the social security
26 number, credit card number, unlisted telephone number or driver
27 license number of any person, or that portion of any document
28 which discloses the home address, whether a primary or secondary
29 residence, of any active, formerly active, or retired judicial officer
30 or prosecutor, and any active, formerly active, or retired law
31 enforcement officer; except for use by any government agency,
32 including any court or law enforcement agency, in carrying out its
33 functions, or any private person or entity acting on behalf thereof,
34 or any private person or entity seeking to enforce payment of court-
35 ordered child support; except with respect to the disclosure of driver
36 information by the New Jersey Motor Vehicle Commission as
37 permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4); and except
38 that a social security number contained in a record required by law
39 to be made, maintained or kept on file by a public agency shall be
40 disclosed when access to the document or disclosure of that
41 information is not otherwise prohibited by State or federal law,
42 regulation or order or by State statute, resolution of either or both
43 houses of the Legislature, Executive Order of the Governor, rule of
44 court or regulation promulgated under the authority of any statute or
45 executive order of the Governor;
46 a list of persons identifying themselves as being in need of
47 special assistance in the event of an emergency maintained by a

1 municipality for public safety purposes pursuant to section 1 of
2 P.L.2017, c.266 (C.40:48-2.67); and

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

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

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

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

24 records of pursuit of charitable contributions or records
25 containing the identity of a donor of a gift if the donor requires non-
26 disclosure of the donor's identity as a condition of making the gift
27 provided that the donor has not received any benefits of or from the
28 institution of higher education in connection with such gift other
29 than a request for memorialization or dedication;

30 valuable or rare collections of books or documents obtained by
31 gift, grant, bequest or devise conditioned upon limited public
32 access;

33 information contained on individual admission applications; and
34 information concerning student records or grievance or
35 disciplinary proceedings against a student to the extent disclosure
36 would reveal the identity of the student.

37 "Personal firearms record" means any information contained in a
38 background investigation conducted by the chief of police, the
39 county prosecutor, or the Superintendent of State Police, of any
40 applicant for a permit to purchase a handgun, firearms identification
41 card license, or firearms registration; any application for a permit to
42 purchase a handgun, firearms identification card license, or firearms
43 registration; any document reflecting the issuance or denial of a
44 permit to purchase a handgun, firearms identification card license,
45 or firearms registration; and any permit to purchase a handgun,
46 firearms identification card license, or any firearms license,
47 certification, certificate, form of register, or registration statement.
48 For the purposes of this paragraph, information contained in a

1 background investigation shall include, but not be limited to,
2 identity, name, address, social security number, phone number, fax
3 number, driver's license number, email address, social media
4 address of any applicant, licensee, registrant or permit holder.

5 "Public agency" or "agency" means any of the principal
6 departments in the Executive Branch of State Government, and any
7 division, board, bureau, office, commission or other instrumentality
8 within or created by such department; the Legislature of the State
9 and any office, board, bureau or commission within or created by
10 the Legislative Branch; and any independent State authority,
11 commission, instrumentality or agency. The terms also mean any
12 political subdivision of the State or combination of political
13 subdivisions, and any division, board, bureau, office, commission or
14 other instrumentality within or created by a political subdivision of
15 the State or combination of political subdivisions, and any
16 independent authority, commission, instrumentality or agency
17 created by a political subdivision or combination of political
18 subdivisions.

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

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

24 "Judicial officer" means any active, formerly active, or retired
25 federal, state, county, or municipal judge, including a judge of the
26 Tax Court and any other court of limited jurisdiction established,
27 altered, or abolished by law, a judge of the Office of Administrative
28 Law, a judge of the Division of Workers' Compensation, and any
29 other judge established by law who serves in the executive branch.

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

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

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

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

45 "Victims' rights agency" means a public agency, or part thereof,
46 the primary responsibility of which is providing services, including
47 but not limited to food, shelter, or clothing, medical, psychiatric,
48 psychological or legal services or referrals, information and referral

1 services, counseling and support services, or financial services to
2 victims of crimes, including victims of sexual assault, domestic
3 violence, violent crime, child endangerment, child abuse or child
4 neglect, and the Victims of Crime Compensation Board, established
5 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as
6 the Victims of Crime Compensation Office pursuant to P.L.2007,
7 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.
8 (cf: P.L.2021, c.24, s.1)

9
10 2. Section 6 of P.L.2001, c.404 (C.47:1A-5) is amended to read
11 as follows:

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

1 demonstrate an emergent need, a regulation that limits access to
2 government records shall not be retroactive in effect or applied to
3 deny a request for access to a government record that is pending
4 before the agency, the council or a court at the time of the adoption
5 of the regulation.

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

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

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

42 d. A custodian shall permit access to a government record and
43 provide a copy thereof in the medium requested if the public agency
44 maintains the record in that medium. If the public agency does not
45 maintain the record in the medium requested, the custodian shall
46 either convert the record to the medium requested or provide a copy
47 in some other meaningful medium. If a request is for a record: (1)
48 in a medium not routinely used by the agency; (2) not routinely

1 developed or maintained by an agency; or (3) requiring a substantial
2 amount of manipulation or programming of information technology,
3 the agency may charge, in addition to the actual cost of duplication,
4 a special charge that shall be reasonable and shall be based on the
5 cost for any extensive use of information technology, or for the
6 labor cost of personnel providing the service, that is actually
7 incurred by the agency or attributable to the agency for the
8 programming, clerical, and supervisory assistance required, or both.

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

13 f. The custodian of a public agency shall adopt a form for the
14 use of any person who requests access to a government record held
15 or controlled by the public agency. The form shall provide space
16 for the name, address, and [phone] telephone number of the
17 requestor and a brief description of the government record sought.
18 The form shall also include space for a requestor to certify that the
19 information will not be used for a commercial purpose. The form
20 shall include space for the custodian to indicate which record will
21 be made available, when the record will be available, and the fees to
22 be charged. The form shall also include the following: (1) specific
23 directions and procedures for requesting a record; (2) a statement as
24 to whether prepayment of fees or a deposit is required; (3) the time
25 period within which the public agency is required by P.L.1963, c.73
26 (C.47:1A-1 et seq.) as amended and supplemented, to make the
27 record available; (4) a statement of the requestor's right to challenge
28 a decision by the public agency to deny access and the procedure
29 for filing an appeal; (5) space for the custodian to list reasons if a
30 request is denied in whole or in part; (6) space for the requestor to
31 sign and date the form; (7) space for the custodian to sign and date
32 the form if the request is fulfilled or denied. The custodian may
33 require a deposit against costs for reproducing documents sought
34 through an anonymous request whenever the custodian anticipates
35 that the information thus requested will cost in excess of \$5 to
36 reproduce.

37 g. A request for access to a government record shall be in
38 writing and hand-delivered, mailed, transmitted electronically, or
39 otherwise conveyed to the appropriate custodian.

40 A custodian shall promptly comply with a request to inspect,
41 examine, copy, or provide a copy of a government record. If the
42 custodian is unable to comply with a request for access, the
43 custodian shall indicate the specific basis therefor on the request
44 form and promptly return it to the requestor. The custodian shall
45 sign and date the form and provide the requestor with a copy
46 thereof. If the custodian of a government record asserts that part of
47 a particular record is exempt from public access pursuant to
48 P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented,

1 the custodian shall delete or excise from a copy of the record that
2 portion which the custodian asserts is exempt from access and shall
3 promptly permit access to the remainder of the record. If the
4 government record requested is temporarily unavailable because it
5 is in use or in storage, the custodian shall so advise the requestor
6 and shall make arrangements to promptly make available a copy of
7 the record. If a request for access to a government record would
8 substantially disrupt agency operations, the custodian may deny
9 access to the record after attempting to reach a reasonable solution
10 with the requestor that accommodates the interests of the requestor
11 and the agency.

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

16 i. (1) Unless a shorter time period is otherwise provided by
17 statute, regulation, or executive order, a custodian of a government
18 record shall grant access to a government record or deny a request
19 for access to a government record as soon as possible, but not later
20 than seven business days after receiving the request, provided that
21 the record is currently available and not in storage or archived. In
22 the event a custodian fails to respond within seven business days
23 after receiving a request, the failure to respond shall be deemed a
24 denial of the request, unless the requestor has elected not to provide
25 a name, address or telephone number, or other means of contacting
26 the requestor. If the requestor has elected not to provide a name,
27 address, or telephone number, or other means of contacting the
28 requestor, the custodian shall not be required to respond until the
29 requestor reappears before the custodian seeking a response to the
30 original request. If the government record is in storage or archived,
31 the requestor shall be so advised within seven business days after
32 the custodian receives the request. The requestor shall be advised
33 by the custodian when the record can be made available. If the
34 record is not made available by that time, access shall be deemed
35 denied.

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

45 j. A custodian shall post prominently in public view in the part
46 or parts of the office or offices of the custodian that are open to or
47 frequented by the public a statement that sets forth in clear, concise
48 and specific terms the right to appeal a denial of, or failure to

1 provide, access to a government record by any person for
2 inspection, examination, or copying or for purchase of copies
3 thereof and the procedure by which an appeal may be filed.

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

8 1. No requestor shall submit a request for access to a
9 government record for the purpose of obtaining information for
10 commercial purposes. No custodian of a government record shall
11 accept or fulfill such a request.

12 (cf: P.L.2021, c.24, s.2)

13
14 3. Section 12 of P.L.2001, c.404 (C.47:1A-11) is amended to
15 read as follows:

16 12. a. A public official, officer, employee or custodian who
17 knowingly and willfully violates P.L.1963, c.73 (C.47:1A-1 et seq.),
18 as amended and supplemented, and is found to have unreasonably
19 denied access under the totality of the circumstances, shall be
20 subject to a civil penalty of \$1,000 for an initial violation, \$2,500
21 for a second violation that occurs within 10 years of an initial
22 violation, and \$5,000 for a third violation that occurs within 10
23 years of an initial violation.

24 A requestor who is found to have intentionally failed to certify
25 that a records request is for commercial purposes shall be subject to
26 a civil penalty of \$500 for the first offense, \$1,000 for the second
27 offense, and \$2,000 for each subsequent offense. Penalties may be
28 imposed by the courts or the Government Records Council.

29 **【This penalty】** These penalties shall be collected and enforced in
30 proceedings in accordance with the "Penalty Enforcement Law of
31 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court
32 governing actions for the collection of civil penalties. The Superior
33 Court shall have jurisdiction of proceedings for the collection and
34 enforcement of the penalty imposed by this section.

35 Appropriate disciplinary proceedings may be initiated against a
36 public official, officer, employee or custodian against whom a
37 penalty has been imposed.

38 (cf: P.L.2001, c.404, s.12)

39
40 4. This act shall take effect immediately.
41
42

43 STATEMENT

44
45 This bill prohibits requests for access to government records for
46 commercial purposes. The bill also requires a requestor to certify
47 that the information requested will not be used for a commercial
48 purpose, and a requestor who is found to have intentionally failed to

- 1 certify that a records request is for commercial purposes will be
- 2 subject to a fine of \$500 for the first offense, \$1,000 for the second
- 3 offense, and \$2,000 for each subsequent offense.