

SENATE, No. 2930

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 4, 2024

Sponsored by:
Senator PAUL A. SARLO
District 36 (Bergen and Passaic)

SYNOPSIS

Makes various changes to process for access to government records; appropriates \$8 million.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT concerning access to government records, amending and
2 supplementing various parts of the statutory law, and making an
3 appropriation.

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

7
8 1. Section 1 of P.L.1963, c.73 (C.47:1A-1) is amended to read
9 as follows:

10 1. The Legislature finds and declares it to be the public policy
11 of this State that:

12 government records shall be readily accessible for inspection,
13 copying, or examination by the citizens of this State, with certain
14 exceptions, for the protection of the public interest, and any
15 limitations on the right of access accorded by P.L.1963, c.73
16 (C.47:1A-1 et seq.) as amended and supplemented, shall be
17 construed in favor of the public's right of access;

18 all government records shall be subject to public access unless
19 exempt from such access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as
20 amended and supplemented; any other statute; resolution of either
21 or both houses of the Legislature; regulation promulgated under the
22 authority of any statute or Executive Order of the Governor;
23 Executive Order of the Governor; Rules of Court; any federal law,
24 federal regulation, or federal order;

25 a public agency has a responsibility and an obligation to
26 safeguard from public access a citizen's personal information with
27 which it has been entrusted, or information that might reasonably
28 lead to disclosure of a person's personal information, when
29 disclosure thereof would violate the citizen's reasonable expectation
30 of privacy, or when the public agency has reason to believe that
31 disclosure of such personal information may result in harassment,
32 unwanted solicitation, identity theft, or opportunities for other
33 criminal acts; and

34 nothing contained in P.L.1963, c.73 (C.47:1A-1 et seq.), as
35 amended and supplemented, shall be construed as affecting in any
36 way the common law right of access to any record, including but
37 not limited to criminal investigatory records of a law enforcement
38 agency.

39 (cf: P.L.2001, c.404, s.1)

40
41 2. Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended to
42 read as follows:

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

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

6 "Child protective investigator in the Division of Child Protection
7 and Permanency" means an employee of the Division of Child
8 Protection and Permanency in the Department of Children and
9 Families whose primary duty is to investigate reports of child abuse
10 and neglect, or any other employee of the Department of Children
11 and Families whose duties include investigation, response to, or
12 review of allegations of child abuse and neglect.

13 "Commercial purpose" means the direct or indirect use of any
14 part of a government record for sale, resale, solicitation, rent or
15 lease of a service, or any use by which the user expects a profit
16 either through commission, salary, or fee. "Commercial purpose"
17 shall not include using, distributing, gathering, procuring,
18 transmitting, compiling, editing, disseminating, or publishing of
19 information or data by the news media, or any parent company,
20 subsidiary, or affiliate of any news media, as defined by section 2 of
21 P.L.1977, c.253 (C.2A:84A-21a), or by any news, journalistic,
22 educational, scientific, scholarly, or governmental organization, or
23 by any person authorized to act on behalf of a candidate committee,
24 joint candidate committee, political committee, continuing political
25 committee, political party committee, or legislative leadership
26 committee, as defined by section 3 of P.L.1973, c.83 (C.19:44A-3),
27 registered with the New Jersey Election Law Enforcement
28 Commission.

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

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

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

40 "Data broker" means a business that knowingly collects and sells
41 to third parties the personal information of a consumer with whom
42 the business does not have a direct relationship.

43 "Government record" or "record" means any paper, written or
44 printed book, document, drawing, map, plan, photograph,
45 microfilm, data processed or image processed document,
46 information stored or maintained electronically or by sound-
47 recording or in a similar device, or any copy thereof, that has been
48 made, maintained or kept on file in the course of his or its official

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1 business by any officer, commission, agency or authority of the
2 State or of any political subdivision thereof, including subordinate
3 boards thereof, or that has been received in the course of his or its
4 official business by any such officer, commission, agency, or
5 authority of the State or of any political subdivision thereof,
6 including subordinate boards thereof. The terms shall not include
7 inter-agency or intra-agency advisory, consultative, **[or]**
8 deliberative, or draft material, including notes generated and used to
9 prepare final reports, documents, or records.

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

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

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

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

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

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

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

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

42 criminal investigatory records;

43 the portion of any criminal record concerning a person's
44 detection, apprehension, arrest, detention, trial or disposition for
45 unlawful manufacturing, distributing, or dispensing, or possessing
46 or having under control with intent to manufacture, distribute, or
47 dispense, marijuana or hashish in violation of paragraph (11) of
48 subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or

1 hashish in violation of paragraph (12) of subsection b. of that
2 section, or a violation of either of those paragraphs and a violation
3 of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or
4 subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for
5 distributing, dispensing, or possessing, or having under control with
6 intent to distribute or dispense, on or within 1,000 feet of any
7 school property, or on or within 500 feet of the real property
8 comprising a public housing facility, public park, or public
9 building, or for obtaining, possessing, using, being under the
10 influence of, or failing to make lawful disposition of marijuana or
11 hashish in violation of paragraph (3) or (4) of subsection a., or
12 subsection b., or subsection c. of N.J.S.2C:35-10, or for a violation
13 of any of those provisions and a violation of N.J.S.2C:36-2 for
14 using or possessing with intent to use drug paraphernalia with that
15 marijuana or hashish;

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

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

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

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

35 trade secrets and proprietary commercial or financial information
36 obtained from any source. For the purposes of this paragraph, trade
37 secrets shall include ~~data processing~~ software, applications, and
38 code obtained by a public body under a licensing agreement which
39 prohibits its disclosure;

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

45 administrative or technical information regarding computer
46 hardware, tablets, telephones, and devices, or software,

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1 applications, and networks [which, if disclosed, would jeopardize
2 computer security] , or related technologies;
3 emergency or security information or procedures for any
4 buildings or facility which, if disclosed, would jeopardize security
5 of the building or facility or persons therein;
6 security measures and surveillance techniques which, if
7 disclosed, would create a risk to the safety of persons, property,
8 electronic data or software;
9 security alarm system activity and access reports, including
10 video footage, for any public building, facility, or grounds unless
11 the request identifies a specific incident that occurred, a specific
12 date, and a limited time period at a particular public building,
13 facility, or grounds;
14 information which, if disclosed, would give an advantage to
15 competitors or bidders, including detailed or itemized cost estimates
16 prior to bid opening;
17 information generated by or on behalf of public employers or
18 public employees in connection with any sexual harassment
19 complaint filed with a public employer or with any grievance filed
20 by or against an individual or in connection with collective
21 negotiations, including documents and statements of strategy or
22 negotiating position;
23 information related to strategies or negotiating positions that
24 would unfairly prejudice or impair contract negotiations;
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, NGB-22, or that form, issued by the
31 United States Government, or any other certificate of honorable
32 discharge, or copy thereof, from active service or the reserves of a
33 branch of the Armed Forces of the United States, or from service in
34 the organized militia of the State, that has been filed by an
35 individual with a public agency, except that a veteran or the
36 veteran's spouse or surviving spouse shall have access to the
37 veteran's own records;
38 any copy of an oath of allegiance, oath of office or any
39 affirmation taken upon assuming the duties of any public office, or
40 that oath or affirmation, taken by a current or former officer or
41 employee in any public office or position in this State or in any
42 county or municipality of this State, including members of the
43 Legislative Branch, Executive Branch, Judicial Branch, and all law
44 enforcement entities, except that the full name, title, and oath date
45 of that person contained therein shall not be deemed confidential;
46 that portion of any document which discloses the social security
47 number, credit card number, **[unlisted]** debit card number, bank
48 account information, month and day of birth, email address, any

1 telephone number, or driver license number of any person, or, in
2 accordance with section 2 of P.L.2021, c.371 (C.47:1B-2), that
3 portion of any document which discloses the home address, whether
4 a primary or secondary residence, of any active, formerly active, or
5 retired judicial officer, law enforcement officer, child protective
6 investigator in the Division of Child Protection and Permanency, or
7 prosecutor, or, as defined in section 1 of P.L.2021, c.371 (C.47:1B-
8 1), any immediate family member thereof; except for use by any
9 government agency, including any court or law enforcement
10 agency, in carrying out its functions, or any private person or entity
11 acting on behalf thereof, or any private person or entity seeking to
12 enforce payment of court-ordered child support; except with respect
13 to the disclosure of driver information by the New Jersey Motor
14 Vehicle Commission as permitted by section 2 of P.L.1997, c.188
15 (C.39:2-3.4); except with respect to the disclosure of information
16 included in records and documents maintained by the Department of
17 the Treasury in connection with the State's business registry
18 programs; and except that a social security number contained in a
19 record required by law to be made, maintained or kept on file by a
20 public agency shall be disclosed when access to the document or
21 disclosure of that information is not otherwise prohibited by State
22 or federal law, regulation or order or by State statute, resolution of
23 either or both houses of the Legislature, Executive Order of the
24 Governor, rule of court or regulation promulgated under the
25 authority of any statute or executive order of the Governor;

26 that portion of any document that discloses the personal
27 identifying information of any person provided to a public agency
28 for the sole purpose of receiving official notifications;

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

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

39 that portion of any document that requires and would disclose
40 personal identifying information of persons under the age of 18
41 years, including names, except with respect to the disclosure of
42 driver information by the New Jersey Motor Vehicle Commission
43 as permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4) or the
44 disclosure of driver information to any insurer or insurance support
45 organization, or a self-insured entity, or its agents, employees, or
46 contractors, for use in connection with claims investigation
47 activities, antifraud activities, rating, or underwriting, and except
48 with respect to the disclosure of voter information on voter and

1 election records pursuant to section 11 of P.L. , c. (C.) (pending
2 before the Legislature as this bill);
3 personal identifying information disclosed on domestic animal
4 permits, licenses, and registration;
5 structured reference data that helps to sort and identify attributes
6 of the information it describes, referred to as metadata, or any
7 extrapolation or compilation thereof;
8 New Jersey State Firemen’s Association financial relief
9 applications;
10 owner and maintenance manuals;
11 data classified under the “Health Insurance Portability and
12 Accountability Act of 1996,” Pub.L.104-191;
13 logs of telephone calls, emails, or texts; and
14 electronic or paper calendars for individuals.
15 A government record shall not include, with regard to any public
16 institution of higher education, the following information which is
17 deemed to be privileged and confidential:
18 pedagogical, scholarly and/or academic research records and/or
19 the specific details of any research project conducted under the
20 auspices of a public higher education institution in New Jersey,
21 including, but not limited to, research, development information,
22 testing procedures, or information regarding test participants,
23 related to the development or testing of any pharmaceutical or
24 pharmaceutical delivery system, except that a custodian may not
25 deny inspection of a government record or part thereof that gives
26 the name, title, expenditures, source and amounts of funding and
27 date when the final project summary of any research will be
28 available;
29 test questions, scoring keys and other examination data
30 pertaining to the administration of an examination for employment
31 or academic examination;
32 records of pursuit of charitable contributions or records
33 containing the identity of a donor of a gift if the donor requires non-
34 disclosure of the donor's identity as a condition of making the gift
35 provided that the donor has not received any benefits of or from the
36 institution of higher education in connection with such gift other
37 than a request for memorialization or dedication;
38 valuable or rare collections of books or documents obtained by
39 gift, grant, bequest or devise conditioned upon limited public
40 access;
41 information contained on individual admission applications; and
42 information concerning student records or grievance or
43 disciplinary proceedings against a student to the extent disclosure
44 would reveal the identity of the student.
45 "Judicial officer" means any active, formerly active, or retired
46 federal, state, county, or municipal judge, including a judge of the
47 Tax Court and any other court of limited jurisdiction established,
48 altered, or abolished by law, a judge of the Office of Administrative

1 Law, a judge of the Division of Workers' Compensation, and any
2 other judge established by law who serves in the executive branch.

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

6 "Law enforcement officer" means a person whose public duties
7 include the power to act as an officer for the detection,
8 apprehension, arrest, and conviction of offenders against the laws of
9 this State.

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

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

29 "Personal identifying information" means information that may
30 be used, alone or in conjunction with any other information, to
31 identify a specific individual. For purposes of this act, personal
32 identifying information shall include, but shall not be limited to, the
33 following data elements: name, social security number, credit card
34 number, debit card number, bank account information, month and
35 day of birth, email address, any telephone number, the street
36 address portion of any person's primary or secondary home address,
37 or driver license number of any person.

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

1 independent authority, commission, instrumentality or agency
2 created by a political subdivision or combination of political
3 subdivisions.

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

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

13 "Victims' rights agency" means a public agency, or part thereof,
14 the primary responsibility of which is providing services, including,
15 but not limited to, food, shelter, or clothing, medical, psychiatric,
16 psychological or legal services or referrals, information and referral
17 services, counseling and support services, or financial services to
18 victims of crimes, including victims of sexual assault, domestic
19 violence, violent crime, child endangerment, child abuse or child
20 neglect, and the Victims of Crime Compensation Board, established
21 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as
22 the Victims of Crime Compensation Office pursuant to P.L.2007,
23 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.
24 (cf: P.L.2023, c.113, s.1)

25

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

28 6. a. The custodian of a government record shall permit the
29 record to be inspected, examined, and copied by any person during
30 regular business hours; or in the case of a municipality having a
31 population of 5,000 or fewer according to the most recent federal
32 decennial census, a board of education having a total district
33 enrollment of 500 or fewer, or a public authority having less than
34 \$10 million in assets, during not less than six regular business hours
35 over not less than three business days per week or the entity's
36 regularly-scheduled business hours, whichever is less; unless a
37 government record is exempt from public access by: P.L.1963, c.73
38 (C.47:1A-1 et seq.) as amended and supplemented; any other
39 statute; resolution of either or both houses of the Legislature;
40 regulation promulgated under the authority of any statute or
41 Executive Order of the Governor; Executive Order of the Governor;
42 Rules of Court; any federal law; federal regulation; or federal order.
43 Prior to allowing access to any government record, the custodian
44 thereof shall redact from that record any information which
45 discloses the social security number, credit card number, **[unlisted]**
46 telephone number, or driver license number of any person, or, in
47 accordance with section 2 of P.L.2021, c.371 (C.47:1B-2), the home
48 address, whether a primary or secondary residence, of any active,

1 formerly active, or retired judicial officer, prosecutor, law
2 enforcement officer, or child protective investigator in the Division
3 of Child Protection and Permanency, or, as defined in section 1 of
4 P.L.2021, c.371 (C.47:1B-1), any immediate family member
5 thereof; except for use by any government agency, including any
6 court or law enforcement agency, in carrying out its functions, or
7 any private person or entity acting on behalf thereof, or any private
8 person or entity seeking to enforce payment of court-ordered child
9 support; except with respect to the disclosure of driver information
10 by the New Jersey Motor Vehicle Commission as permitted by
11 section 2 of P.L.1997, c.188 (C.39:2-3.4); and except that a social
12 security number contained in a record required by law to be made,
13 maintained or kept on file by a public agency shall be disclosed
14 when access to the document or disclosure of that information is not
15 otherwise prohibited by State or federal law, regulation or order or
16 by State statute, resolution of either or both houses of the
17 Legislature, Executive Order of the Governor, rule of court or
18 regulation promulgated under the authority of any statute or
19 executive order of the Governor. Prior to allowing access to any
20 government record, the custodian shall redact from that record any
21 information which discloses, or which might reasonably lead to
22 disclosure of the telephone number, email address, or any medical,
23 financial, or personal information of a member of the public when
24 the disclosure thereof would violate the citizen's reasonable
25 expectation of privacy or when the public agency has a reason to
26 believe that disclosure of such personal information may result in
27 harassment, unwanted solicitation, identity theft, or opportunities
28 for other criminal acts. Except where an agency can demonstrate an
29 emergent need, a regulation that limits access to government
30 records shall not be retroactive in effect or applied to deny a request
31 for access to a government record that is pending before the agency,
32 the council or a court at the time of the adoption of the regulation.

33 b. (1) A copy or copies of a government record may be
34 purchased by any person upon payment of the fee prescribed by law
35 or regulation.

36 Except as otherwise provided by law or regulation and except as
37 provided in paragraph (2) of this subsection, the fee assessed for the
38 duplication of a government record embodied in the form of printed
39 matter shall be \$0.05 per letter size page or smaller, and \$0.07 per
40 legal size page or larger. **【**If a public agency can demonstrate that
41 its actual costs for duplication of a government record exceed the
42 foregoing rates, the public agency shall be permitted to charge the
43 actual cost of duplicating the record. The actual cost of duplicating
44 the record, upon which all copy fees are based, shall be the cost of
45 materials and supplies used to make a copy of the record, but shall
46 not include the cost of labor or other overhead expenses associated
47 with making the copy except as provided for in subsection c. of this
48 section. **】** Access to electronic records and non-printed materials

1 shall be provided free of charge , but the public agency may charge
2 for the actual costs of any needed supplies such as computer discs.
3 No fee shall be charged if the request is completed by directing the
4 requestor to the requested government record that is available on
5 the public agency's website or the website of another public agency.

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

9 c. Whenever the nature, format, manner of collation, or volume
10 of a government record embodied in the form of printed matter to
11 be inspected, examined, or copied pursuant to this section is such
12 that the record cannot be reproduced by ordinary document copying
13 equipment in ordinary business size or involves an extraordinary
14 expenditure of time and effort to accommodate the request, the
15 public agency may charge, in addition to the actual cost of
16 duplicating the record, a special service charge that **【shall be**
17 **reasonable and】** shall be based upon the actual direct cost of
18 providing the copy or copies **【**; provided, however, that in the case
19 of a municipality, rates for the duplication of particular records
20 when the actual cost of copying exceeds the foregoing rates shall be
21 established in advance by ordinance**】**, and such special service
22 charge shall be presumed to be reasonable.

23 The requestor shall have the opportunity to review and object to
24 **【the】** any fee or charge prior to it being incurred.

25 d. A custodian shall permit access to a government record and
26 provide a copy thereof in the medium or format requested if the
27 public agency maintains the record in that medium or format. If the
28 public agency does not maintain the record in the medium or format
29 requested, the custodian **【shall】**, at the custodian's discretion, may
30 either convert the record to the medium or format requested or
31 provide a copy in some other meaningful medium or format. **【If a**
32 request is for a record: (1) in a medium not routinely used by the
33 agency; (2) not routinely developed or maintained by an agency; or
34 (3) requiring a substantial amount of manipulation or programming
35 of information technology, the agency may charge, in addition to
36 the actual cost of duplication, a special charge that shall be
37 reasonable and shall be based on the cost for any extensive use of
38 information technology, or for the labor cost of personnel providing
39 the service, that is actually incurred by the agency or attributable to
40 the agency for the programming, clerical, and supervisory
41 assistance required, or both.**】** If the public agency does not
42 maintain the record in the electronic medium or format requested,
43 the custodian shall be under no obligation to convert the record to
44 the electronic medium or format requested but shall, at a minimum,
45 provide a copy in the format maintained by the public agency.

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

1 agreements and individual employment contracts, and public
2 employee salary and overtime information. Immediate access to
3 government records shall not be required to be granted for
4 documents over 12 months old.

5 Government records shall be made available to the public on a
6 publicly available website to the extent feasible. A public agency
7 may enter into shared services agreements for providing certain
8 government records electronically.

9 If the government record is readily available on a public
10 agency's website, the custodian may require the requestor to obtain
11 the record from the website, which shall contain a search bar feature
12 on its home page. The custodian shall provide the requestor with
13 directions to assist in finding the record on the website, including
14 providing the website URL address and the location on the website
15 of the search bar, menu button, tab, link, landing page or equivalent,
16 which contains the requested record. The request shall be deemed
17 fulfilled upon notification by the custodian to the requestor of the
18 availability and location on the website of the requested
19 information.

20 f. The custodian of a public agency shall adopt a form for the
21 use of any person who requests access to a government record held
22 or controlled by the public agency. The form shall provide space
23 for the name, address, email address and **[phone]** telephone number
24 of the requestor and a brief description of the government record
25 sought. A request shall be submitted by a requestor in the form
26 adopted by the custodian and the custodian may deny a request that
27 is not submitted in the form adopted by the custodian. A request
28 may be submitted anonymously provided, however, that anonymous
29 requestors shall not be permitted to institute proceedings pursuant
30 to section 7 of P.L.2001, c.404 (C.47:1A-6).

31 The form also shall include space for a requestor to certify
32 whether the government record will be used by that requestor or
33 another person for a commercial purpose, and the requestor shall be
34 required to provide this information for the request to be fulfilled.

35 All requests by a data broker or a requestor who is making a
36 request on behalf of and for the use of a data broker shall be denied.
37 The form also shall include space for a requestor to certify that the
38 requestor is not a data broker or is not making the request on behalf
39 of or for the use of a data broker, and the requestor shall be required
40 to provide this information for the request to be fulfilled.

41 Data obtained through a records request shall not be sold.

42 The form shall include space for the custodian to indicate which
43 record will be made available, when the record will be available,
44 and the fees to be charged. The form shall also include the
45 following: (1) specific directions and procedures for requesting a
46 record; (2) a statement as to whether prepayment of fees or a
47 deposit is required; (3) the time period within which the public
48 agency is required by P.L.1963, c.73 (C.47:1A-1 et seq.) as

1 amended and supplemented, to make the record available; (4) a
2 statement of the requestor's right to challenge a decision by the
3 public agency to deny access and the procedure for filing an appeal;
4 (5) space for the custodian to list reasons if a request is denied in
5 whole or in part; (6) space for the requestor to sign and date the
6 form; (7) space for the custodian to sign and date the form if the
7 request is fulfilled or denied. The custodian may require a deposit
8 against costs for reproducing documents sought through **【an**
9 **anonymous】** a request whenever the custodian anticipates that the
10 information thus requested will cost in excess of \$5 to reproduce.

11 Custodians shall provide directions on how to submit requests
12 for government records, including any required forms, on the public
13 agency's website.

14 Custodians shall be permitted to provide an electronic response
15 to any electronic records request if government records are
16 available electronically.

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

42 A party to a legal proceeding may not request a government
43 record if the record sought is the subject of a court order in the legal
44 proceeding or if compliance would otherwise be unreasonable,
45 oppressive, or duplicative of already pending discovery request
46 made in that legal proceeding, and a custodian shall not be required
47 to complete such a request. The requestor shall be required to
48 certify whether the government record is being sought in connection

1 with a legal proceeding and identify the proceeding for the request
2 to be fulfilled. For purposes of this provision, a party to a legal
3 proceeding shall include a party in interest, any attorney
4 representing that party, and any person acting as an agent for or on
5 behalf of that party.

6 A custodian shall not be required to complete a request including
7 for, but not limited to, mail, email, text messages, correspondence,
8 or social media postings and messages, if the request does not
9 identify specific individuals or accounts to be searched and is not
10 confined to a discrete and limited time period and a specific subject
11 matter, or if the custodian determines that the request would require
12 research and the collection of information from the contents of
13 government records and the creation of new government records
14 setting forth that research and information.

15 h. Any officer or employee of a public agency who receives a
16 request for access to a government record shall forward the request
17 to the custodian of the record or direct the requestor to the
18 custodian of the record. The request shall not be considered
19 submitted until it is received by the custodian of records.

20 i. (1) Unless a shorter time period is otherwise provided by
21 statute, regulation, or executive order, a custodian of a government
22 record shall grant access to a government record or deny a request
23 for access to a government record as soon as possible, but not later
24 than seven business days after receiving the request, or 14 business
25 days if the request is for a commercial purpose or if the records
26 have to be reviewed by the public agency for the purpose of the
27 agency's compliance with P.L.2020, c.125 (C.47:1B-1 et seq.), but
28 the custodian shall notify the requestor of the additional response
29 time within seven business days, provided that the record is
30 currently available and not in storage or archived. The response
31 time periods of seven or 14 business days, as established in this
32 subsection, shall be an additional seven business days longer if the
33 public agency is a fire district which employs one or fewer full-time
34 employees who serve as custodians.

35 In the event a records custodian is unable to fulfill a records
36 request due to unforeseen circumstances or circumstances that
37 otherwise reasonably necessitate additional time to fulfill the
38 records request, the custodian shall be entitled to a reasonable
39 extension of any response deadline and shall notify the requestor of
40 the time extension within seven business days after receiving the
41 request.

42 In the event a custodian fails to respond within seven business
43 days or 14 business days, as appropriate, after receiving a request,
44 the failure to respond shall be deemed a denial of the request, unless
45 the requestor has elected not to accurately identify themselves or to
46 provide [a name,] an accurate address, email address, or telephone
47 number [, or other means of contacting the requestor]. If the
48 requestor has elected not to accurately identify themselves or to

1 provide **[a name,]** an accurate address, email address, or telephone
2 number, **[or other means of contacting the requestor,]** the custodian
3 shall not be required to respond until the requestor **[reappears**
4 **before]** contacts the custodian seeking a response to the original
5 request.

6 If the government record is in storage or archived, the requestor
7 shall be so advised within seven or 14 business days, as appropriate,
8 after the custodian receives the request. The requestor shall be
9 advised by the custodian when the record can be made available,
10 which shall be no more than 21 business days from the date the
11 requestor is so advised. If the record is not made available by that
12 time, access shall be deemed denied.

13 A public agency shall not be considered to be in possession of a
14 public record that is created or maintained by another public agency
15 and made available to the public agency either by remote access to
16 a computer network or by distribution as a courtesy copy. A
17 records custodian of a public agency that receives a request for such
18 a record, shall not be obligated to provide the record to the
19 requestor and shall direct the requestor within seven business days
20 to the public agency that, to the best of their knowledge, created or
21 maintains the requested record, at which time the request shall be
22 considered completed.

23 The custodian shall not be required to complete an identical
24 request for access to a government record from the same requestor
25 if the information has not changed.

26 A requestor shall have 14 business days to retrieve the
27 government records following notice from the custodian that the
28 request has been completed and the records are available.

29 (2) During a period declared pursuant to the laws of this State as
30 a state of emergency, public health emergency, or state of local
31 disaster emergency, the deadlines by which to respond to a request
32 for, or grant or deny access to, a government record under
33 paragraph (1) of this subsection or subsection e. of this section shall
34 not apply, provided, however, that the custodian of a government
35 record shall make a reasonable effort, as the circumstances permit,
36 to respond to a request for access to a government record within
37 seven business days or 14 business days, as appropriate, or as soon
38 as possible thereafter.

39 j. A custodian shall **[post prominently in public view in the**
40 **part or parts of the office or offices of the custodian that are open to**
41 **or frequented by the public a statement that sets forth in clear,**
42 **concise and specific terms the]** include information on the public
43 agency's website and public records request form regarding a
44 requestor's right to appeal a denial of, or failure to provide, access
45 to a government record [by any person for inspection, examination,
46 or copying or for purchase of copies thereof] and the procedure by
47 which an appeal may be filed, which shall include the website

1 address and toll-free information line phone number of the
2 Government Records Council.

3 k. The files maintained by the Office of the Public Defender
4 that relate to the handling of any case shall be considered
5 confidential and shall not be open to inspection by any person
6 unless authorized by law, court order, or the State Public Defender.
7 (cf: P.L.2023, c.113, s.2)

8
9 4. Section 7 of P.L.2001, c.404 (C.47:1A-6) is amended to read
10 as follows:

11 7. A person who is denied access to a government record by
12 the custodian of the record, at the option of the requestor who is
13 accurately identified by name, may, within 45 days of the date of
14 denial:

15 institute a proceeding to challenge the custodian's decision by
16 filing an action in Superior Court which shall be heard in the
17 vicinage where it is filed by a Superior Court Judge who has been
18 designated to hear such cases because of that judge's knowledge
19 and expertise in matters relating to access to government records; or
20 in lieu of filing an action in Superior Court, file a complaint with
21 the Government Records Council established pursuant to section 8
22 of P.L.2001, c.404 (C.47:1A-7).

23 The right to institute any proceeding under this section shall be
24 solely that of the requestor. Any such proceeding shall proceed in a
25 summary or expedited manner. The public agency shall have the
26 burden of proving that the denial of access is authorized by law. If
27 it is determined that access has been improperly denied, the court or
28 **[agency head]** Government Records Council shall order that access
29 be allowed. A requestor who prevails in any proceeding **[shall]**
30 may be entitled to a reasonable attorney's fee. In determining
31 whether to award attorney's fees, the court or the Government
32 Records Council may consider whether the public agency is found
33 to have knowingly and willfully violated P.L.1963, c.73 (C.47:1A-1
34 et seq.), or to have unreasonably denied access.

35 If the records sought are produced by the public agency within
36 seven business days of service of an action in Superior Court or a
37 complaint before the Government Records Council, the matter shall
38 be dismissed without prejudice and the requestor may be entitled to
39 a reasonable attorney's fee if the custodian knew or should have
40 known that the denial of access violated P.L.1963, c.73 (C.47:1A-1
41 et seq.).

42 (cf: P.L.2001, c.404, s.7)

43

44 5. Section 8 of P.L.2001, c.404 (C.47:1A-7) is amended to read
45 as follows:

46 8. a. (1) There is established in the Department of Community
47 Affairs a Government Records Council. The council shall consist
48 of the Commissioner of Community Affairs or the commissioner's

1 designee, [the Commissioner of Education or the commissioner's
2 designee, and three public members appointed by the Governor,
3 with the advice and consent of the Senate, not more than two of
4 whom shall be of the same political party. The three public
5 members shall serve during the term of the Governor making the
6 appointment and until the appointment of a successor] who shall
7 serve as Chair, and eight public members appointed as follows: four
8 appointed by the Governor with the advice and consent of the
9 Senate; two directly appointed by the Governor from persons
10 recommended by the President of the Senate; and two directly
11 appointed by the Governor from persons recommended by the
12 Speaker of the General Assembly. Each public member shall serve
13 for a term of five years and until a successor is appointed and
14 qualified.

15 (2) Notwithstanding any provision of subsection a. (1) of this
16 section, or any other law, rule, or regulation to the contrary, within
17 90 days following the enactment date of P.L. , c. (pending
18 before the Legislature as this bill), the Governor shall directly
19 appoint eight public members to the council, each of whom shall
20 serve for a term of three years and until a successor is appointed
21 and qualified, as follows: two from persons recommended by the
22 President of the Senate, two from persons recommended by the
23 Speaker of the General Assembly, and four appointed at the sole
24 discretion of the Governor. The terms of office of the members of
25 the council serving on the date of enactment of P.L. , c (pending
26 before the Legislature as this bill), shall expire upon the Governor's
27 direct appointment of the new members pursuant to this subsection.

28 (3) A public member shall not hold any other State or local
29 elected [or appointed] office [or employment] while serving as a
30 member of the council. A public member shall [not receive a
31 salary for service on the council but shall be reimbursed for
32 reasonable and necessary expenses associated with serving on the
33 council and may receive such per diem payment as may be provided
34 in the annual appropriations act] receive a salary equivalent to that
35 provided by law for a public member of the Local Finance Board of
36 the Division of Local Government Services in the Department of
37 Community Affairs. A member may be removed by the Governor
38 for cause. Vacancies among the public members shall be filled [in
39 the same manner in which the original appointment was made. The
40 members of the council shall choose one of the public members to
41 serve as the council's chair.] by appointment by the Governor,
42 according to the provisions of subsection a. of this section, and for
43 the remainder of the unexpired term. The council may employ an
44 executive director and such professional and clerical staff as it
45 deems necessary and may call upon the Department of Community
46 Affairs for such assistance as it deems necessary and may be
47 available to it.

- 1 b. The Government Records Council shall:
- 2 establish an informal mediation program to facilitate the
- 3 resolution of disputes regarding access to government records;
- 4 receive, hear, review and adjudicate a complaint filed by any
- 5 person concerning a denial of access to a government record by a
- 6 records custodian;
- 7 issue advisory opinions, on its own initiative, as to whether a
- 8 particular type of record is a government record which is accessible
- 9 to the public;
- 10 prepare guidelines and an informational pamphlet for use by
- 11 records custodians in complying with the law governing access to
- 12 public records;
- 13 prepare an informational pamphlet explaining the public's right
- 14 of access to government records and the methods for resolving
- 15 disputes regarding access, which records custodians shall make
- 16 available to persons requesting access to a government record;
- 17 prepare lists for use by records custodians of the types of records
- 18 in the possession of public agencies which are government records;
- 19 make training opportunities available for records custodians and
- 20 other public officers and employees which explain the law
- 21 governing access to public records; and
- 22 operate an informational website and a toll-free helpline staffed
- 23 by knowledgeable employees of the council during regular business
- 24 hours which shall enable any person, including records custodians,
- 25 to call for information regarding the law governing access to public
- 26 records and allow any person to request mediation or to file a
- 27 complaint with the council when access has been denied【;】.
- 28 In implementing the provisions of 【subsections d. and e. of】 this
- 29 section, the council shall: act, to the maximum extent possible, at
- 30 the convenience of the parties; utilize video conferencing,
- 31 teleconferencing, faxing of documents, e-mail and similar forms of
- 32 modern communication; conduct virtual meetings and hearings,
- 33 when practical and at the discretion of the council; and when in-
- 34 person meetings are necessary, send representatives to meet with
- 35 the parties at a location convenient to the parties.
- 36 The council shall periodically review the information and format
- 37 of its website and make such adjustments as shall be deemed
- 38 necessary to ensure that the information is clearly presented,
- 39 accessible, and useful for the general public. The council shall
- 40 conduct such an initial review within six months following the
- 41 effective date of P.L. , c. (pending before the Legislature as this
- 42 bill).
- 43 c. At the request of the council, a public agency shall produce
- 44 documents and ensure the attendance of witnesses with respect to
- 45 the council's investigation of any complaint or the holding of any
- 46 hearing.
- 47 d. Upon receipt of a written complaint signed by any person
- 48 alleging that a custodian of a government record has improperly

1 denied that person access to a government record, the council shall
2 offer the parties the opportunity to resolve the dispute through
3 mediation. Mediation shall enable a person who has been denied
4 access to a government record and the public agency that employs
5 the records custodian who denied or failed to provide access thereto
6 to attempt to mediate the dispute through a process whereby a
7 neutral mediator, who shall be trained in mediation selected by the
8 council, acts to encourage and facilitate the resolution of the
9 dispute. Mediation shall be an informal, nonadversarial process
10 having the objective of helping the parties reach a mutually
11 acceptable, voluntary agreement. The mediator shall assist the
12 parties in identifying issues, foster joint problem solving, and
13 explore settlement alternatives.

14 e. If any party declines mediation or if mediation fails to
15 resolve the matter to the satisfaction of all parties, the council shall
16 initiate an investigation concerning the facts and circumstances set
17 forth in the complaint. The council shall make a determination as
18 to whether the complaint is within its jurisdiction or frivolous or
19 without any reasonable factual basis. The council may assign staff
20 attorneys to conduct the investigation, present findings, and make
21 recommendations to the council. If the council shall conclude that
22 the complaint is outside its jurisdiction, frivolous, or without factual
23 basis, it shall reduce that conclusion to writing and transmit a copy
24 thereof to the complainant and to the public agency that employs
25 the records custodian against whom the complaint was filed.
26 Otherwise, the council shall notify the public agency that employs
27 the records custodian against whom the complaint was filed of the
28 nature of the complaint and the facts and circumstances set forth
29 therein. The public agency that employs the records custodian shall
30 have the opportunity to present the board with any statement or
31 information concerning the complaint which the **【custodian】**
32 agency wishes. If the council is able to make a determination as to
33 a record's accessibility based upon the complaint and the
34 **【custodian's】** agency's response thereto, it shall reduce that
35 conclusion to writing and transmit a copy thereof to the
36 complainant and to the public agency that employs the records
37 custodian against whom the complaint was filed. If the council is
38 unable to make a determination as to a record's accessibility based
39 upon the complaint and the **【custodian's】** agency's response thereto,
40 the council shall conduct a hearing on the matter in conformity with
41 the rules and regulations provided for hearings by a State agency in
42 contested cases under the "Administrative Procedure Act,"
43 P.L.1968, c.410 (C.52:14B-1 et seq.), insofar as they may be
44 applicable and practicable. The council shall, by a majority vote of
45 its members, render a decision as to whether the record which is the
46 subject of the complaint is a government record which must be
47 made available for public access pursuant to P.L.1963, c.73
48 (C.47:1A-1 et seq.) as amended and supplemented. If the council

1 determines, by a majority vote of its members, that a custodian
2 **【has】** is found to have knowingly and willfully violated P.L.1963,
3 c.73 (C.47:1A-1 et seq.), as amended and supplemented, and 【is
4 found】 to have unreasonably denied access under the totality of the
5 circumstances, the council may impose the penalties provided for in
6 section 12 of P.L.2001, c.404 (C.47:1A-11) on the public agency
7 that employs the custodian. A decision of the council may be
8 appealed to the Appellate Division of the Superior Court. Such
9 appeals shall be filed within 30 days from the date the council
10 renders a decision. A decision of the council shall not have value as
11 a precedent for any case initiated in Superior Court pursuant to
12 section 7 of P.L.2001, c.404 (C.47:1A-6). All proceedings of the
13 council pursuant to this subsection shall be conducted as
14 expeditiously as possible.

15 Beginning 18 months following the effective date of P.L. , c.
16 (pending before the Legislature as this bill), the council shall
17 adjudicate all complaints that come before it within 90 days of the
18 complaint's filing, with the ability to extend for 30 days for good
19 cause, exclusive of any time period during which the parties are
20 engaged in a mediation process pursuant to this section. The
21 council shall make such organizational adjustments and modify its
22 procedures as it deems necessary to ensure that complaints are
23 adjudicated in such a timeframe.

24 f. The council shall not charge any party a fee in regard to
25 actions filed with the council. The council shall be subject to the
26 provisions of the "Open Public Meetings Act," P.L.1975, c.231
27 (C.10:4-6), except that the council may go into closed session
28 during that portion of any proceeding during which the contents of a
29 contested record would be disclosed. **【A requestor who prevails in**
30 **any proceeding shall be entitled to a reasonable attorney's fee.】**

31 g. The council shall not have jurisdiction over the Judicial or
32 Legislative Branches of State Government or any agency, officer, or
33 employee of those branches.
34 (cf: P.L.2001, c.404, s.8)

35
36 6. Section 12 of P.L.2001, c.404 (C.47:1A-11) is amended to
37 read as follows:

38 12. a. **【A】** If a public official, officer, employee, or custodian
39 【who】 is found to have knowingly and willfully 【violates】 violated
40 P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented,
41 and 【is found】 to have unreasonably denied access under the
42 totality of the circumstances, the public agency that employs the
43 custodian, officer, employee, or official shall be subject to a civil
44 penalty of \$1,000 for an initial violation, \$2,500 for a second
45 violation that occurs within 10 years of an initial violation, and
46 \$5,000 for a third violation that occurs within 10 years of an initial
47 violation. 【This penalty】 The penalties authorized pursuant to this

1 subsection may be imposed by the courts or by the Government
2 Records Council.

3 b. A requestor who is found to have sold the data obtained by a
4 records request, who is found to have intentionally failed to certify
5 that a records request is for a commercial purpose, who is a data
6 broker, or who is making the request on behalf of and for the use of
7 a data broker, and is found to have intentionally certified that the
8 requestor is not a data broker or is not making the request on behalf
9 of and for the use of a data broker, shall be subject to a civil penalty
10 of \$1,000 for the first offense, \$2,500 for the second offense, and
11 \$5,000 for each subsequent offense. The penalties may be imposed
12 by the courts.

13 c. These penalties shall be collected and enforced in
14 proceedings in accordance with the "Penalty Enforcement Law of
15 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court
16 governing actions for the collection of civil penalties. The Superior
17 Court shall have jurisdiction of proceedings for the collection and
18 enforcement of the penalty imposed by this section.

19 d. Appropriate disciplinary proceedings may be initiated
20 against a public official, officer, employee or custodian against
21 whom a penalty has been imposed.

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

23

24 7. Section 2 of P.L.2021, c.371 (C.47:1B-2) is amended to read
25 as follows:

26 2. a. An authorized person seeking the redaction or
27 nondisclosure of the home address of any covered person from
28 certain records and Internet postings consistent with section 2 of
29 P.L.2015, c.226 (C.47:1-17), section 1 of P.L.1995, c.23 (C.47:1A-
30 1.1), or section 6 of P.L.2001, c.404 (C.47:1A-5) shall submit a
31 request in accordance with section 1 of P.L.2021, c.371 (C.47:1B-1)
32 to the Office of Information Privacy through the secure portal
33 established by the office. The address shall only be subject to
34 redaction or nondisclosure if a request is submitted to and approved
35 by the Director of the Office of Information Privacy.

36 b. (1) A public agency shall redact or cease to disclose, in
37 accordance with section 6 of P.L.2001, c.404 (C.47:1A-5) and
38 section 1 of P.L.1995, c.23 (C.47:1A-1.1), respectively, the home
39 address of a covered person approved by the Office of Information
40 Privacy not later than 30 days following the approval. A public
41 agency shall also discontinue the redaction or nondisclosure of the
42 home address of any covered person for whom a revocation request
43 has been approved not later than 30 days following the approval.

44 (2) A custodian of a public agency who makes a reasonable
45 effort to comply with this subsection shall be presumed to have
46 acted without willful, purposeful, or reckless disregard of the law.

47 c. An immediate family member who has sought and received
48 approval under subsection a. of this section and who no longer

1 resides with the active, formerly active, or retired judicial officer,
2 law enforcement officer, child protective investigator in the
3 Division of Child Protection and Permanency, or prosecutor shall
4 submit through the portal a revocation request not later than 30 days
5 from the date on which the immediate family member no longer
6 resided with the judicial officer, law enforcement officer, child
7 protective investigator in the Division of Child Protection and
8 Permanency, or prosecutor.

9 d. A person submitting a request pursuant to subsection a. of
10 this section shall affirm in writing that the person understands that
11 certain rights, duties, and obligations are affected as a result of the
12 request, including:

13 (1) the receipt of certain notices from non-governmental entities
14 as would otherwise be required pursuant to the "Municipal Land
15 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.);

16 (2) the signing of petitions related to the nomination or election
17 of a candidate to public office or related to any public question;

18 (3) the eligibility or requirements related to seeking or accepting
19 the nomination for election or election to public office, or the
20 appointment to any public position;

21 (4) the sale or purchase of a home or other property, recordation
22 of a judgment, lien or other encumbrance on real or other property,
23 and any relief granted based thereon;

24 (5) the ability to be notified of any class action suit or
25 settlement; and

26 (6) any other legal, promotional, or official notice which would
27 otherwise be provided to the person but for the redaction or
28 nondisclosure of such person's home address pursuant to subsection
29 a. of this section.

30 (cf: P.L.2023, c.113, s.4)

31

32 8. (New section) a. Notwithstanding any other law or rule or
33 regulation to the contrary, whenever there is filed a verified
34 complaint to the Superior Court of the county in which the request
35 for access to government records was made under P.L.1963, c.73
36 (C.47:1A-1 et seq.) alleging that a requestor has sought records
37 thereunder for the purpose to harass a public agency, or to
38 substantially interrupt government function, the court may issue a
39 protective order limiting the number and scope of requests the
40 requestor may make or order such other relief as it deems
41 appropriate, including referral of the matter to mediation. The court
42 may issue the protective order if it finds that the requestor has
43 sought records under P.L.1963, c.73 (C.47:1A-1 et seq.) for the
44 purpose of harassing the public agency, or to substantially interrupt
45 government function, as the term harass is defined in N.J.S.2C:33-
46 4. The complaint shall be accompanied by a declaration of facts by
47 the public agency withholding the records demonstrating that it has
48 complied with P.L.1963, c.73 (C.47:1A-1 et seq.) and has made a

1 good faith effort to reach an informal resolution of the issues
2 relating to the records requests.

3 The requestor shall have notice and an opportunity to answer the
4 allegations set forth in the petition submitted by the public agency.

5 The public agency shall have the burden of proof by clear and
6 convincing evidence.

7 The court's consideration of a public agency's complaint for
8 relief shall proceed in a summary or expedited manner.

9 b. The order specified in subsection a. of this section may limit,
10 or, in appropriate circumstances, eliminate the public agency's duty
11 to respond to government records requests from the requestor in the
12 future.

13
14 9. (New section) a. A data broker business entity conducting
15 business in this State shall register with the Division of Revenue
16 and Enterprise Services in the Department of the Treasury. The
17 division shall impose an annual fee of \$250 for each registration.
18 The fee shall be deposited into the fund created pursuant to
19 subsection c. of this section. For the purpose of this section, "data
20 broker" shall have the same meaning as in section 1 of P.L.1995,
21 c.23 (C.47:1A-1.1).

22 b. The Department of the Treasury may issue rules and
23 regulations necessary to effectuate the purpose of this section. The
24 rules and regulations shall be effective immediately upon filing
25 with the Office of Administrative Law for a period not to exceed
26 one year and may, thereafter, be amended, adopted, or readopted in
27 accordance with the "Administrative Procedure Act," P.L.1968,
28 c.410 (C.52:14B-1 et seq.).

29 c. There shall be created in the Department of the Treasury a
30 dedicated, non-lapsing fund for providing grants to political
31 subdivisions of the State for the purpose of providing access to
32 government records electronically, including through the use of
33 shared services agreements. The fund shall be administered by the
34 State Treasurer. Monies in the fund shall be appropriated annually
35 solely for this purpose.

36
37 10. (New section) The Attorney General shall establish a Police
38 Record Access Improvement Task Force to investigate the existing
39 statutes governing public access to police records and develop
40 recommendations for necessary changes to the law.

41 The members of the Police Record Access Improvement Task
42 Force shall be comprised of 12 members. The membership of the
43 task force shall be as follows:

44 The Attorney General, or the Attorney's General designee, who
45 shall serve ex officio, as Chair;

46 Seven public members, appointed by the Governor, one who is a
47 member of law enforcement, one who is a county or municipal
48 prosecutor, one who is a criminal defense attorney or public

1 defender, one who is a member of a social justice advocacy
2 organization, one who is a member of the New Jersey Press
3 Association, one who is a member of the New Jersey League of
4 Municipalities, and one who is a member of the New Jersey
5 Association of Counties;

6 Two public members, appointed by the Governor upon the
7 recommendation of the President of the Senate; and

8 Two public members, appointed by the Governor upon the
9 recommendation of the Speaker of the General Assembly.

10 The task force shall submit to the Governor and to the
11 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
12 19.1), recommendations for changes to the law.

13 The Department of Law and Public Safety shall provide
14 stenographic, clerical, and other administrative assistance and
15 professional staff as the task force requires to carry out its work.
16 The task force shall be entitled to call to its assistance and avail
17 itself of the services of the employees of any State, county, or
18 municipal department, board, bureau, commission, or agency as it
19 may require and as may be available for its purposes.

20 The public members of the task force shall serve without
21 compensation, but may be reimbursed for necessary and actual
22 expenses incurred in the performance of their duties to the extent
23 that funds are made available for that purpose.

24

25 11. (New section) a. The provisions of this section shall apply
26 only to the New Jersey Division of Elections, the New Jersey
27 Election Law Enforcement Commission, County Boards of
28 Elections, County Superintendents of Elections, County Clerks,
29 Municipal Clerks, Fire District Board Clerks, School District
30 Business Administrators, and School District Board Secretaries,
31 hereafter referred to as an “election agency” or “election agencies.”
32 Except as otherwise provided for in this section, all provisions of
33 this act, P.L. , c. (pending before the Legislature as this bill),
34 shall apply to all election agencies. Nothing herein shall be
35 construed to mean that an election agency is required to provide a
36 record in response to a request for records, unless it has made or
37 received and maintains said requested record pursuant to law or
38 regulation.

39 b. Notwithstanding any other law, rule, or regulation to the
40 contrary, except as otherwise provided in sections 2 and 3 of
41 P.L.2021, c.371 (C.47:1B-1 et seq.), subsection b. of section 1 of
42 P.L.1994, c.148 (C.19:31-3.2), or in any rules or regulations
43 promulgated by the Secretary of State pursuant to subsection f. of
44 this section, the following shall be records for which the provided
45 information shall not be redacted by an election agency except for
46 voter signatures, Social Security numbers, driver license numbers,
47 and non-driver identification numbers:

- 1 (1) Voter registration forms and forms changing the provided
2 information thereof;
 - 3 (2) Party affiliation forms and forms changing the provided
4 information thereof;
 - 5 (3) Applications for a vote-by-mail ballot, except as otherwise
6 provided in sections 3 and 13 of P.L.2020, c.70 (C.19:63-1 et seq.);
 - 7 (4) Forms or reports submitted to the Election Law Enforcement
8 Commission;
 - 9 (5) Nominating petitions for any candidate for any elected
10 office, which shall be provided in a manner that includes voter
11 signatures on such petitions;
 - 12 (6) Petitions to recall an elected official, which shall be
13 provided in a manner that includes voter signatures on such
14 petitions;
 - 15 (7) Petitions or submissions for any public question or referenda
16 to be considered by voters, which shall be provided in a manner that
17 includes voter signatures on such petitions;
 - 18 (8) Any submissions, responses, objections, or challenges
19 pertaining to a record referred to in this subsection; and
 - 20 (9) Any addendums, amendments, corrections, withdrawals, or
21 accompanying forms or submissions pertaining to a record referred
22 to in this subsection.
- 23 c. Notwithstanding any other law, rule, or regulation to the
24 contrary, the following shall be records and information that an
25 election agency shall make available to requestors for immediate
26 access and transmission via email as soon as possible, but not later
27 than two business days after receipt of the request, provided the
28 request is not for a commercial purpose, for which a fee shall not be
29 charged nor collected:
- 30 (1) Nominating petitions for any candidate for any elected office
31 filed with the election agency within the preceding 90 days of the
32 date the request is received;
 - 33 (2) Petitions to recall an elected official filed with the election
34 agency within the preceding 90 days of the date the request is
35 received;
 - 36 (3) Petitions or submissions for any public question or referenda
37 to be considered by voters filed with the election agency within the
38 preceding 90 days of the date the request is received;
 - 39 (4) Any submissions, responses, objections, or challenges filed
40 with the election agency within the preceding 90 days pertaining to
41 a record referred to in this subsection;
 - 42 (5) Any addendums, amendments, corrections, withdrawals, or
43 accompanying forms or submissions filed with the election agency
44 within the preceding 90 days pertaining to a record referred to in
45 this subsection; and
 - 46 (6) The inspection and transmission deadline requirements of
47 this subsection shall be deemed satisfied if an election agency posts

1 on its website the records and information referred to in this
2 subsection.

3 d. Notwithstanding any other law, rule, or regulation to the
4 contrary, the following in paragraphs (1) through (4) of this
5 subsection shall be records and information that an election agency
6 shall make available to requestors for immediate access and
7 transmission via email as soon as possible, provided the request
8 pertains only to an election to be held within 16 days after the date
9 of the request and is not for a commercial purpose. The
10 transmission shall be not later than two business days after receipt
11 of the request when said request is made between one and 15 days
12 before the date of the election pertaining to the request. For any
13 request submitted the day before an election by noon, the request
14 shall be completed by noon the day of the election. A fee shall not
15 be charged nor collected. This subsection shall apply to:

16 (1) Lists, in a format capable of being sorted by the requestor, of
17 registered voters, including their name, address, party affiliation,
18 and municipal voting ward and district, who have requested, been
19 mailed, or returned a vote-by-mail ballot, including the dates the
20 ballot was requested by the voter, mailed to the voter, and received
21 by the appropriate election agency;

22 (2) Lists, in a format capable of being sorted by the requestor, of
23 registered voters, including their name, address, party affiliation,
24 and municipal voting ward and district, who have cast a vote during
25 the early voting period, including the date and polling location the
26 vote was cast;

27 (3) The inspection and transmission deadline requirements of this
28 subsection shall be deemed satisfied if an election agency posts on
29 its website the records and information referred to in this
30 subsection; and

31 (4) Whenever the requirements of this subsection would cause a
32 voter's privacy to be violated, the information shall be provided in a
33 manner that maintains the privacy of the voter.

34 e. The following records or information shall not be subject to
35 disclosure pursuant to a request for public records:

36 (1) Ballots marked by a voter, vote tabulations, or election
37 results for any election prior to the time of the closing of the polls
38 on the date of the election, except as otherwise provided for by law,
39 rule, or regulation; and

40 (2) Manuals instructions, specifications, technical information,
41 or programming code of computers, software, applications,
42 networks, tablets, voting machines, printers, scanners, and any other
43 equipment, systems, policies or plans used for the conduct of
44 elections, the disclosure of which, could have the potential to
45 jeopardize the security, integrity or accuracy of the conduct of
46 elections, tabulation of votes, or determination of election results,
47 except as otherwise provided for by law, rule, or regulation, or in

1 response to a subpoena or order of a court or tribunal of competent
2 jurisdiction.

3 f. The Secretary of State may adopt regulations necessary to
4 effectuate the purposes of this act, which regulations shall be
5 effective immediately upon filing with the Office of Administrative
6 Law for a period not to exceed 18 months, and may, thereafter, be
7 amended, adopted or readopted in accordance with the provisions of
8 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.).

10

11 12. (New section) a. The provisions of section 1 of P.L.1963,
12 c.73 (C.47:1A-1), section 1 of P.L.1995, c.23 (C.47:1A-1.1),
13 sections 6, 7, and 8 of P.L.2001, c.404 (C.47:1A-5 through 47:1A-
14 7), and section 2 of P.L.2021, c.371 (C.47:1B-2), as amended by
15 sections 1 through 5 and section 7 of P.L. , c. (pending before
16 the Legislature as this bill), shall apply retroactively to all
17 complaints and appeals pending before the Government Records
18 Council, the Superior Court or the Supreme Court of New Jersey
19 filed prior to the effective date of P.L. , c. (pending before the
20 Legislature as this bill), provided, however, that nothing in this
21 section shall be construed as to retroactively reduce the statute of
22 limitations governing any complaint or appeal pending before the
23 Government Records Council, the Superior Court or the Supreme
24 Court of New Jersey.

25 b. All complaints and appeals pending before the Government
26 Records Council or the Superior Court filed prior to the effective
27 date of P.L. , c. (pending before the Legislature as this bill),
28 either anonymously or using a fictitious name or identity, may be
29 dismissed with prejudice upon a motion by the public agency,
30 unless the complainant files an amendment to their complaint that
31 accurately identifies their name and mailing address within 90 days
32 of the effective date of P.L. , c. (pending before the Legislature
33 as this bill).

34 c. The parties to any complaint or appeal pending before the
35 Government Records Council, the Superior Court or the Supreme
36 Court of New Jersey filed prior to the effective date of P.L. , c.
37 (pending before the Legislature as this bill), shall be permitted to
38 file an amendment to their respective complaints and answers
39 within 90 days of the effective date of P.L. , c. (pending before
40 the Legislature as this bill).

41

42 13. a. There is hereby appropriated \$4,000,000 from the State
43 General Fund to the Department of Community Affairs to provide
44 grants to political subdivisions of the State for the purpose of
45 making government records that are accessible under P.L.1963, c.73
46 (C.47:1A-1 et seq.) available electronically, including through the
47 use of shared services agreements.

1 b. There is hereby appropriated \$4,000,000 from the State
2 General Fund to the Department of Community Affairs for the
3 Government Records Council.

4
5 14. This act shall take effect 30 days following the date of
6 enactment, except as otherwise provided for in this act, and except
7 that section 9 and section 11 shall take effect eight months
8 following the date of enactment. The Attorney General,
9 Department of Community Affairs, the Government Records
10 Council, the Department of the Treasury, and the Department of
11 State may take any anticipatory administrative action in advance as
12 shall be necessary for the implementation of this act.

13
14
15 STATEMENT

16
17 This bill makes various changes to the law governing access to
18 government records, commonly known as the open public records
19 act, including the following:

20 modifies the conditions under which a records custodian has to
21 respond to a request for records, allowing the custodian discretion
22 to deny duplicative or anonymous requests;

23 encourages and allocates funds to assist public agencies in
24 moving documents online, making these records searchable via an
25 online database, to the extent feasible;

26 creates a uniform and comprehensive definition of “personal
27 identifying information” which, in many cases, is redacted by the
28 records custodian;

29 establishes specific timelines for responses to records requests
30 occurring under various circumstances, such as when a record may
31 be unavailable or in storage, and adds additional specificity and
32 clarity to the items and information which are exempt from public
33 access;

34 prohibits records requests made by or for data brokers, who take
35 the information they gather and use it for a commercial purpose;

36 transfers the responsibility for violations from the custodian to
37 the public agency, and allows, in limited circumstances, for the
38 courts to issue a protective order to shield the agency from
39 harassment;

40 alters the composition of the Government Records Council,
41 adding more public members, establishing staggered five year
42 terms, and annual salaries; and

43 establishes a Police Record Access Improvement Task Force to
44 investigate the existing statutes governing public access to police
45 records and develop recommendations for necessary changes to the
46 law.