

# ASSEMBLY, No. 1676

## STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Assemblyman JON M. BRAMNICK**

**District 21 (Morris, Somerset and Union)**

**Assemblyman JAY WEBBER**

**District 26 (Essex, Morris and Passaic)**

**Assemblywoman NANCY F. MUNOZ**

**District 21 (Morris, Somerset and Union)**

**SYNOPSIS**

Provides that crime victims do not have to pay fees to obtain government records and that requests for records are not public information.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning victims of crime and amending P.L.2012, c.27  
2 and P.L.1995, c.23.

3

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

6

7 1. Section 3 of P.L.2012, c.27 (C.52:4B-36.2) is amended to  
8 read as follows:

9 3. Pursuant to Article I, paragraph 22 of the New Jersey  
10 Constitution **[, no]**:

11 a. A crime victim shall not be required to pay the maintenance,  
12 support, rehabilitation, or other costs arising from the imprisonment  
13 or commitment of a victimizer as a result of the crime; and

14 b. A crime victim, or alleged crime victim, shall not be charged  
15 any fee otherwise prescribed by law or regulation to obtain copies  
16 of a government record, as defined in section 1 of P.L.1995, c.23  
17 (C.47:1A-1.1), relating to that person's victimization or alleged  
18 victimization, including, but not limited to, any law enforcement  
19 agency report, domestic violence offense report, and temporary or  
20 permanent restraining order.

21 (cf: P.L.2012, c.27, s.3)

22

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

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

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

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

37 "Government record" or "record" means any paper, written or  
38 printed book, document, drawing, map, plan, photograph,  
39 microfilm, data processed or image processed document,  
40 information stored or maintained electronically or by sound-  
41 recording or in a similar device, or any copy thereof, that has been  
42 made, maintained or kept on file in the course of his or its official  
43 business by any officer, commission, agency or authority of the  
44 State or of any political subdivision thereof, including subordinate  
45 boards thereof, or that has been received in the course of his or its

**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 official business by any such officer, commission, agency, or  
2 authority of the State or of any political subdivision thereof,  
3 including subordinate boards thereof. The terms shall not include  
4 inter-agency or intra-agency advisory, consultative, or deliberative  
5 material.

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

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

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

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

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

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

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

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

38 criminal investigatory records;

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

41 any written request by a victim or alleged victim for a record  
42 relating to that person's victimization or alleged victimization,  
43 including, but not limited to, any law enforcement agency report,  
44 domestic violence offense report, and temporary or permanent  
45 restraining order;

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

1 secrets shall include data processing software obtained by a public  
2 body under a licensing agreement which prohibits its disclosure;  
3 any record within the attorney-client privilege. This paragraph  
4 shall not be construed as exempting from access attorney or  
5 consultant bills or invoices except that such bills or invoices may be  
6 redacted to remove any information protected by the attorney-client  
7 privilege;  
8 administrative or technical information regarding computer  
9 hardware, software and networks which, if disclosed, would  
10 jeopardize computer security;  
11 emergency or security information or procedures for any  
12 buildings or facility which, if disclosed, would jeopardize security  
13 of the building or facility or persons therein;  
14 security measures and surveillance techniques which, if  
15 disclosed, would create a risk to the safety of persons, property,  
16 electronic data or software;  
17 information which, if disclosed, would give an advantage to  
18 competitors or bidders;  
19 information generated by or on behalf of public employers or  
20 public employees in connection with any sexual harassment  
21 complaint filed with a public employer or with any grievance filed  
22 by or against an individual or in connection with collective  
23 negotiations, including documents and statements of strategy or  
24 negotiating position;  
25 information which is a communication between a public agency  
26 and its insurance carrier, administrative service organization or risk  
27 management office;  
28 information which is to be kept confidential pursuant to court  
29 order;  
30 any copy of form DD-214, or that form, issued by the United  
31 States Government, or any other certificate of honorable discharge,  
32 or copy thereof, from active service or the reserves of a branch of  
33 the Armed Forces of the United States, or from service in the  
34 organized militia of the State, that has been filed by an individual  
35 with a public agency, except that a veteran or the veteran's spouse  
36 or surviving spouse shall have access to the veteran's own records;  
37 and  
38 that portion of any document which discloses the social security  
39 number, credit card number, unlisted telephone number or driver  
40 license number of any person; except for use by any government  
41 agency, including any court or law enforcement agency, in carrying  
42 out its functions, or any private person or entity acting on behalf  
43 thereof, or any private person or entity seeking to enforce payment  
44 of court-ordered child support; except with respect to the disclosure  
45 of driver information by the New Jersey Motor Vehicle  
46 Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-  
47 3.4); and except that a social security number contained in a record

1 required by law to be made, maintained or kept on file by a public  
2 agency shall be disclosed when access to the document or  
3 disclosure of that information is not otherwise prohibited by State  
4 or federal law, regulation or order or by State statute, resolution of  
5 either or both houses of the Legislature, Executive Order of the  
6 Governor, rule of court or regulation promulgated under the  
7 authority of any statute or executive order of the Governor.

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

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

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

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

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

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

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

1 the State or combination of political subdivisions, and any  
2 independent authority, commission, instrumentality or agency  
3 created by a political subdivision or combination of political  
4 subdivisions.

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

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

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

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

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

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

25 "Victims' rights agency" means a public agency, or part thereof,  
26 the primary responsibility of which is providing services, including  
27 but not limited to food, shelter, or clothing, medical, psychiatric,  
28 psychological or legal services or referrals, information and referral  
29 services, counseling and support services, or financial services to  
30 victims of crimes, including victims of sexual assault, domestic  
31 violence, violent crime, child endangerment, child abuse or child  
32 neglect, and the Victims of Crime Compensation Board, established  
33 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.).  
34 (cf: P.L.2005, c.170, s.1)

35  
36 3. This act shall take effect on the first day of the fourth month  
37 following enactment.

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39  
40 STATEMENT

41  
42 This bill would prohibit a crime victim, or alleged crime victim,  
43 from being charged any fee that otherwise would be charged to  
44 obtain a government record relating to that person's victimization  
45 or alleged victimization. Under the bill, a victim would not be  
46 charged for any law enforcement agency report, domestic violence  
47 offense report, or temporary or permanent restraining order.

1 Current law defines a “government record” as any paper, written  
2 or printed book, document, drawing, map, plan, photograph,  
3 microfilm, data processed or image processed document,  
4 information stored or maintained electronically or by sound-  
5 recording or in a similar device, or any copy thereof, that has been  
6 made, maintained or kept on file in the course of his or its official  
7 business by any officer, commission, agency or authority of the  
8 State or of any political subdivision thereof, including subordinate  
9 boards thereof, or that has been received in the course of his or its  
10 official business by any such officer, commission, agency, or  
11 authority of the State or of any political subdivision thereof,  
12 including subordinate boards thereof.

13 The bill also would amend the Open Public Records Act (OPRA)  
14 to specify that any written request by a victim or alleged victim for  
15 a record relating to that person’s victimization or alleged  
16 victimization is not a public record.