

# SENATE, No. 100

## STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Senator ROBERT W. SINGER**

**District 30 (Monmouth and Ocean)**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

**Senator A.R.Bucco**

**SYNOPSIS**

Protects home addresses of law enforcement officers from being released by governmental entities.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning law enforcement officers' home addresses,  
2 amending P.L.1995, c.23 and P.L.2001, c.404 and supplementing  
3 P.L.1963, c.73.

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

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

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

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

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

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

39 information received by a member of the Legislature from a  
40 constituent or information held by a member of the Legislature  
41 concerning a constituent, including but not limited to information in  
42 written form or contained in any e-mail or computer data base, or in  
43 any telephone record whatsoever, unless it is information the  
44 constituent is required by law to transmit;

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

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

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

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

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

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

24 criminal investigatory records;

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

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

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

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

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

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

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

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

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

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

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

20 that portion of any document which discloses the social security  
21 number, credit card number, unlisted telephone number or driver  
22 license number of any person or the home address of any law  
23 enforcement officer or retired law enforcement officer; except for  
24 use by any government agency, including any court or law  
25 enforcement agency, in carrying out its functions, or any private  
26 person or entity acting on behalf thereof, or any private person or  
27 entity seeking to enforce payment of court-ordered child support;  
28 except with respect to the disclosure of driver information by the  
29 New Jersey Motor Vehicle Commission as permitted by section 2 of  
30 P.L.1997, c.188 (C.39:2-3.4); and except that a social security  
31 number contained in a record required by law to be made,  
32 maintained or kept on file by a public agency shall be disclosed  
33 when access to the document or disclosure of that information is not  
34 otherwise prohibited by State or federal law, regulation or order or  
35 by State statute, resolution of either or both houses of the  
36 Legislature, Executive Order of the Governor, rule of court or  
37 regulation promulgated under the authority of any statute or  
38 executive order of the Governor.

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

42 pedagogical, scholarly and/or academic research records and/or  
43 the specific details of any research project conducted under the  
44 auspices of a public higher education institution in New Jersey,  
45 including, but not limited to research, development information,  
46 testing procedures, or information regarding test participants,  
47 related to the development or testing of any pharmaceutical or

1 pharmaceutical delivery system, except that a custodian may not  
2 deny inspection of a government record or part thereof that gives  
3 the name, title, expenditures, source and amounts of funding and  
4 date when the final project summary of any research will be  
5 available;

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

9 records of pursuit of charitable contributions or records  
10 containing the identity of a donor of a gift if the donor requires non-  
11 disclosure of the donor's identity as a condition of making the gift  
12 provided that the donor has not received any benefits of or from the  
13 institution of higher education in connection with such gift other  
14 than a request for memorialization or dedication;

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

18 information contained on individual admission applications; and  
19 information concerning student records or grievance or  
20 disciplinary proceedings against a student to the extent disclosure  
21 would reveal the identity of the student.

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

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

39 "Law enforcement officer" means any person who is employed  
40 as a permanent full-time member of any State, county or municipal  
41 law enforcement agency, department, or division of those  
42 governments who is statutorily empowered to act for the detection,  
43 investigation, arrest, conviction, detention, or rehabilitation of  
44 persons violating the criminal laws of this State and statutorily  
45 required to successfully complete a training course approved by, or  
46 certified as being substantially equivalent to such an approved

1 course, by the Police Training Commission pursuant to P.L.1961,  
2 c.56 (C.52:17B-66 et seq.).

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

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

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

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

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

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

30  
31 2. Section 6 of P.L.2001, c.404 (C.47:1A-5) is amended to read  
32 as follows:

33 6. a. The custodian of a government record shall permit the  
34 record to be inspected, examined, and copied by any person during  
35 regular business hours; or in the case of a municipality having a  
36 population of 5,000 or fewer according to the most recent federal  
37 decennial census, a board of education having a total district  
38 enrollment of 500 or fewer, or a public authority having less than  
39 \$10 million in assets, during not less than six regular business hours  
40 over not less than three business days per week or the entity's  
41 regularly-scheduled business hours, whichever is less; unless a  
42 government record is exempt from public access by: P.L.1963, c.73  
43 (C.47:1A-1 et seq.) as amended and supplemented; any other  
44 statute; resolution of either or both houses of the Legislature;  
45 regulation promulgated under the authority of any statute or  
46 Executive Order of the Governor; Executive Order of the Governor;  
47 Rules of Court; any federal law; federal regulation; or federal order.

1 Prior to allowing access to any government record, the custodian  
2 thereof shall redact from that record any information which  
3 discloses the social security number, credit card number, unlisted  
4 telephone number, or driver license number of any person or the  
5 home address of any law enforcement officer or retired law  
6 enforcement officer; except for use by any government agency,  
7 including any court or law enforcement agency, in carrying out its  
8 functions, or any private person or entity acting on behalf thereof,  
9 or any private person or entity seeking to enforce payment of court-  
10 ordered child support; except with respect to the disclosure of driver  
11 information by the New Jersey Motor Vehicle Commission as  
12 permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4); and except  
13 that a social security number contained in a record required by law  
14 to be made, maintained or kept on file by a public agency shall be  
15 disclosed when access to the document or disclosure of that  
16 information is not otherwise prohibited by State or federal law,  
17 regulation or order or by State statute, resolution of either or both  
18 houses of the Legislature, Executive Order of the Governor, rule of  
19 court or regulation promulgated under the authority of any statute or  
20 executive order of the Governor. Except where an agency can  
21 demonstrate an emergent need, a regulation that limits access to  
22 government records shall not be retroactive in effect or applied to  
23 deny a request for access to a government record that is pending  
24 before the agency, the council or a court at the time of the adoption  
25 of the regulation.

26 b. A copy or copies of a government record may be purchased  
27 by any person upon payment of the fee prescribed by law or  
28 regulation. Except as otherwise provided by law or regulation, the  
29 fee assessed for the duplication of a government record embodied in  
30 the form of printed matter shall be \$0.05 per letter size page or  
31 smaller, and \$0.07 per legal size page or larger. If a public agency  
32 can demonstrate that its actual costs for duplication of a government  
33 record exceed the foregoing rates, the public agency shall be  
34 permitted to charge the actual cost of duplicating the record. The  
35 actual cost of duplicating the record, upon which all copy fees are  
36 based, shall be the cost of materials and supplies used to make a  
37 copy of the record, but shall not include the cost of labor or other  
38 overhead expenses associated with making the copy except as  
39 provided for in subsection c. of this section. Access to electronic  
40 records and non-printed materials shall be provided free of charge,  
41 but the public agency may charge for the actual costs of any needed  
42 supplies such as computer discs.

43 c. Whenever the nature, format, manner of collation, or volume  
44 of a government record embodied in the form of printed matter to  
45 be inspected, examined, or copied pursuant to this section is such  
46 that the record cannot be reproduced by ordinary document copying  
47 equipment in ordinary business size or involves an extraordinary

1 expenditure of time and effort to accommodate the request, the  
2 public agency may charge, in addition to the actual cost of  
3 duplicating the record, a special service charge that shall be  
4 reasonable and shall be based upon the actual direct cost of  
5 providing the copy or copies; provided, however, that in the case of  
6 a municipality, rates for the duplication of particular records when  
7 the actual cost of copying exceeds the foregoing rates shall be  
8 established in advance by ordinance. The requestor shall have the  
9 opportunity to review and object to the charge prior to it being  
10 incurred.

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

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

30 f. The custodian of a public agency shall adopt a form for the  
31 use of any person who requests access to a government record held  
32 or controlled by the public agency. The form shall provide space  
33 for the name, address, and phone number of the requestor and a  
34 brief description of the government record sought. The form shall  
35 include space for the custodian to indicate which record will be  
36 made available, when the record will be available, and the fees to be  
37 charged. The form shall also include the following: (1) specific  
38 directions and procedures for requesting a record; (2) a statement as  
39 to whether prepayment of fees or a deposit is required; (3) the time  
40 period within which the public agency is required by P.L.1963, c.73  
41 (C.47:1A-1 et seq.) as amended and supplemented, to make the  
42 record available; (4) a statement of the requestor's right to challenge  
43 a decision by the public agency to deny access and the procedure  
44 for filing an appeal; (5) space for the custodian to list reasons if a  
45 request is denied in whole or in part; (6) space for the requestor to  
46 sign and date the form; (7) space for the custodian to sign and date  
47 the form if the request is fulfilled or denied. The custodian may



1 require a deposit against costs for reproducing documents sought  
2 through an anonymous request whenever the custodian anticipates  
3 that the information thus requested will cost in excess of \$5 to  
4 reproduce.

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

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

31 i. Unless a shorter time period is otherwise provided by  
32 statute, regulation, or executive order, a custodian of a government  
33 record shall grant access to a government record or deny a request  
34 for access to a government record as soon as possible, but not later  
35 than seven business days after receiving the request, provided that  
36 the record is currently available and not in storage or archived. In  
37 the event a custodian fails to respond within seven business days  
38 after receiving a request, the failure to respond shall be deemed a  
39 denial of the request, unless the requestor has elected not to provide  
40 a name, address or telephone number, or other means of contacting  
41 the requestor. If the requestor has elected not to provide a name,  
42 address, or telephone number, or other means of contacting the  
43 requestor, the custodian shall not be required to respond until the  
44 requestor reappears before the custodian seeking a response to the  
45 original request. If the government record is in storage or archived,  
46 the requestor shall be so advised within seven business days after  
47 the custodian receives the request. The requestor shall be advised

1 by the custodian when the record can be made available. If the  
2 record is not made available by that time, access shall be deemed  
3 denied.

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

11 k. The files maintained by the Office of the Public Defender  
12 that relate to the handling of any case shall be considered  
13 confidential and shall not be open to inspection by any person  
14 unless authorized by law, court order, or the State Public Defender.  
15 (cf: P.L.2010, c.75, s.5.)  
16

17 3. (New section) Notwithstanding the provisions of P.L.1963,  
18 c. 73 (C.47:1A-1 et seq.) as amended and supplemented or any  
19 other law to the contrary, when a person is seeking the home  
20 address of a law enforcement officer or retired law enforcement  
21 officer, the right of access provided for in P.L.1963, c.73 (C.47:1A-  
22 1 et seq.) as amended and supplemented shall be denied.  
23

24 4. This act shall take effect immediately.  
25  
26

#### 27 STATEMENT 28

29 This bill protects the home addresses of current and retired law  
30 enforcement officers from being released by governmental entities.  
31 Currently, this information is considered a government record and  
32 is available to the public via P.L.1963, c.73 (C.47:1A-1 et seq.),  
33 commonly known as the open public records act.

34 The bill excludes law enforcement officers' home addresses from  
35 the definition of "government record." The bill also requires  
36 custodians of government records to redact the addresses from any  
37 records prior to granting access, unless the information is sought for  
38 use by a governmental agency in carrying out its functions, or a  
39 private person seeking to enforce a child support order. The bill  
40 further provides that requests for law enforcement officers' home  
41 addresses are to be denied.

42 Law enforcement officer is defined in the bill as, "any person  
43 who is employed as a permanent full-time member of any State,  
44 county or municipal law enforcement agency, department, or  
45 division" of those governments who is statutorily empowered to act  
46 for the detection, investigation, arrest, conviction, detention, or  
47 rehabilitation of persons violating the criminal laws of this State

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1 and statutorily required to successfully complete a training course  
2 approved by, or certified as being substantially equivalent to such  
3 an approved course, by the Police Training Commission pursuant to  
4 P.L.1961, c.56 (C.52:17B-66 et seq.).”