

SENATE, No. 388

STATE OF NEW JERSEY
216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

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Senator Stack

SYNOPSIS

Exempts traffic summons records from public access under State's open public records law.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



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1 AN ACT concerning traffic summons records and amending
2 P.L.1995, c.23.

3

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

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

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

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

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

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

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

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

44 any memorandum, correspondence, notes, report or other
45 communication prepared by, or for, the specific use of a member of

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.

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1 the Legislature in the course of the member's official duties, except
2 that this provision shall not apply to an otherwise publicly-
3 accessible report which is required by law to be submitted to the
4 Legislature or its members;
5 any copy, reproduction or facsimile of any photograph, negative
6 or print, including instant photographs and videotapes of the body,
7 or any portion of the body, of a deceased person, taken by or for the
8 medical examiner at the scene of death or in the course of a post
9 mortem examination or autopsy made by or caused to be made by
10 the medical examiner except:
11 when used in a criminal action or proceeding in this State which
12 relates to the death of that person,
13 for the use as a court of this State permits, by order after good
14 cause has been shown and after written notification of the request
15 for the court order has been served at least five days before the
16 order is made upon the county prosecutor for the county in which
17 the post mortem examination or autopsy occurred,
18 for use in the field of forensic pathology or for use in medical or
19 scientific education or research, or
20 for use by any law enforcement agency in this State or any other
21 state or federal law enforcement agency;
22 criminal investigatory records;
23 victims' records, except that a victim of a crime shall have access
24 to the victim's own records;
25 traffic summons records;
26 personal firearms records, except for use by any person
27 authorized by law to have access to these records or for use by any
28 government agency, including any court or law enforcement
29 agency, for purposes of the administration of justice;
30 personal identifying information received by the Division of Fish
31 and Wildlife in the Department of Environmental Protection in
32 connection with the issuance of any license authorizing hunting
33 with a firearm. For the purposes of this paragraph, personal
34 identifying information shall include, but not be limited to, identity,
35 name, address, social security number, telephone number, fax
36 number, driver's license number, email address, or social media
37 address of any applicant or licensee;
38 trade secrets and proprietary commercial or financial information
39 obtained from any source. For the purposes of this paragraph, trade
40 secrets shall include data processing software obtained by a public
41 body under a licensing agreement which prohibits its disclosure;
42 any record within the attorney-client privilege. This paragraph
43 shall not be construed as exempting from access attorney or
44 consultant bills or invoices except that such bills or invoices may be
45 redacted to remove any information protected by the attorney-client
46 privilege;

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

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

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

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

18 records of pursuit of charitable contributions or records
19 containing the identity of a donor of a gift if the donor requires non-
20 disclosure of the donor's identity as a condition of making the gift
21 provided that the donor has not received any benefits of or from the
22 institution of higher education in connection with such gift other
23 than a request for memorialization or dedication;

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

27 information contained on individual admission applications; and
28 information concerning student records or grievance or
29 disciplinary proceedings against a student to the extent disclosure
30 would reveal the identity of the student.

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

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

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

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

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

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

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

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

35 "Victims' rights agency" means a public agency, or part thereof,
36 the primary responsibility of which is providing services, including
37 but not limited to food, shelter, or clothing, medical, psychiatric,
38 psychological or legal services or referrals, information and referral
39 services, counseling and support services, or financial services to
40 victims of crimes, including victims of sexual assault, domestic
41 violence, violent crime, child endangerment, child abuse or child
42 neglect, and the Victims of Crime Compensation Board, established
43 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.).

44 (cf: P.L.2013, c.116, s.1)

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46 2. This act shall take effect immediately.

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STATEMENT

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This bill would exclude traffic summonses from government records that are subject to public access under the Open Public Records Act. Currently, many attorneys in the State with municipal court practices mine traffic summons records in order to identify persons receiving traffic tickets for the purpose of direct solicitation of legal representation by mail. Persons receiving these solicitations are often greatly embarrassed that their traffic ticket seems to be a matter of extensive public knowledge and concern.