

[Second Reprint]

**ASSEMBLY, No. 3788**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

INTRODUCED FEBRUARY 7, 2013

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**SYNOPSIS**

Codifies regulation exempting firearms records from State's open public records law.

**CURRENT VERSION OF TEXT**

As amended by the Senate on May 13, 2013.



(Sponsorship Updated As Of: 6/25/2013)

1 AN ACT concerning firearms records and amending <sup>2</sup>[P.L.1963,  
2 c.73]<sup>2</sup> P.L.1995, c.23 <sup>2</sup>[, c.23 and P.L.2001, c.404]<sup>2</sup>.

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

6  
7 <sup>2</sup>[1.Section 1 of P.L.1963, c.73 (C.47:1A-1) is amended to read  
8 as follows:

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

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

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

24 a public agency has a responsibility and an obligation to  
25 safeguard from public access a citizen's personal information with  
26 which it has been entrusted when disclosure thereof would violate  
27 the citizen's reasonable expectation of privacy and to safeguard  
28 from public access information when disclosure thereof would  
29 jeopardize personal or public safety; and **[nothing contained in]**  
30 P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented,  
31 shall not be construed as affecting in any way the common law right  
32 of access to any record, including but not limited to criminal  
33 investigatory records of a law enforcement agency , unless  
34 otherwise expressly provided.

35 (cf: P.L.2001, c.404, s.1)<sup>2</sup>

36  
37 <sup>2</sup>[**2.] 1.**<sup>2</sup> Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is  
38 amended to read as follows:

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

41 "Biotechnology" means any technique that uses living  
42 organisms, or parts of living organisms, to make or modify  
43 products, to improve plants or animals, or to develop micro-

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SLP committee amendments adopted May 9, 2013.

<sup>2</sup>Senate floor amendments adopted May 13, 2013.

1 organisms for specific uses; including the industrial use of  
2 recombinant DNA, cell fusion, and novel bioprocessing techniques.

3 "Custodian of a government record" or "custodian" means in the  
4 case of a municipality, the municipal clerk and in the case of any  
5 other public agency, the officer officially designated by formal  
6 action of that agency's director or governing body, as the case may  
7 be.

8 "Government record" or "record" means any paper, written or  
9 printed book, document, drawing, map, plan, photograph,  
10 microfilm, data processed or image processed document,  
11 information stored or maintained electronically or by sound-  
12 recording or in a similar device, or any copy thereof, that has been  
13 made, maintained or kept on file in the course of his or its official  
14 business by any officer, commission, agency or authority of the  
15 State or of any political subdivision thereof, including subordinate  
16 boards thereof, or that has been received in the course of his or its  
17 official business by any such officer, commission, agency, or  
18 authority of the State or of any political subdivision thereof,  
19 including subordinate boards thereof. The terms shall not include  
20 inter-agency or intra-agency advisory, consultative, or deliberative  
21 material.

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

25 information received by a member of the Legislature from a  
26 constituent or information held by a member of the Legislature  
27 concerning a constituent, including but not limited to information in  
28 written form or contained in any e-mail or computer data base, or in  
29 any telephone record whatsoever, unless it is information the  
30 constituent is required by law to transmit;

31 any memorandum, correspondence, notes, report or other  
32 communication prepared by, or for, the specific use of a member of  
33 the Legislature in the course of the member's official duties, except  
34 that this provision shall not apply to an otherwise publicly-  
35 accessible report which is required by law to be submitted to the  
36 Legislature or its members;

37 any copy, reproduction or facsimile of any photograph, negative  
38 or print, including instant photographs and videotapes of the body,  
39 or any portion of the body, of a deceased person, taken by or for the  
40 medical examiner at the scene of death or in the course of a post  
41 mortem examination or autopsy made by or caused to be made by  
42 the medical examiner except:

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

45 for the use as a court of this State permits, by order after good  
46 cause has been shown and after written notification of the request  
47 for the court order has been served at least five days before the

1 order is made upon the county prosecutor for the county in which  
2 the post mortem examination or autopsy occurred,  
3 for use in the field of forensic pathology or for use in medical or  
4 scientific education or research, or  
5 for use by any law enforcement agency in this State or any other  
6 state or federal law enforcement agency;  
7 criminal investigatory records;  
8 victims' records, except that a victim of a crime shall have access  
9 to the victim's own records;  
10 personal firearms records, except for use by any person  
11 authorized by law to have access to these records or for use by any  
12 government agency, including any court or law enforcement  
13 agency, for purposes of the administration of justice;  
14 <sup>1</sup>personal identifying information received by the Division of  
15 Fish and Wildlife in the Department of Environmental Protection in  
16 connection with the issuance of any license authorizing hunting  
17 with a firearm. For the purposes of this paragraph, personal  
18 identifying information shall include, but not be limited to, identity,  
19 name, address, social security number, telephone number, fax  
20 number, driver's license number, email address, or social media  
21 address of any applicant or licensee;<sup>1</sup>  
22 trade secrets and proprietary commercial or financial information  
23 obtained from any source. For the purposes of this paragraph, trade  
24 secrets shall include data processing software obtained by a public  
25 body under a licensing agreement which prohibits its disclosure;  
26 any record within the attorney-client privilege. This paragraph  
27 shall not be construed as exempting from access attorney or  
28 consultant bills or invoices except that such bills or invoices may be  
29 redacted to remove any information protected by the attorney-client  
30 privilege;  
31 administrative or technical information regarding computer  
32 hardware, software and networks which, if disclosed, would  
33 jeopardize computer security;  
34 emergency or security information or procedures for any  
35 buildings or facility which, if disclosed, would jeopardize security  
36 of the building or facility or persons therein;  
37 security measures and surveillance techniques which, if  
38 disclosed, would create a risk to the safety of persons, property,  
39 electronic data or software;  
40 information which, if disclosed, would give an advantage to  
41 competitors or bidders;  
42 information generated by or on behalf of public employers or  
43 public employees in connection with any sexual harassment  
44 complaint filed with a public employer or with any grievance filed  
45 by or against an individual or in connection with collective  
46 negotiations, including documents and statements of strategy or  
47 negotiating position;

1 information which is a communication between a public agency  
2 and its insurance carrier, administrative service organization or risk  
3 management office;

4 information which is to be kept confidential pursuant to court  
5 order;

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

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

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

34 pedagogical, scholarly and/or academic research records and/or  
35 the specific details of any research project conducted under the  
36 auspices of a public higher education institution in New Jersey,  
37 including, but not limited to research, development information,  
38 testing procedures, or information regarding test participants,  
39 related to the development or testing of any pharmaceutical or  
40 pharmaceutical delivery system, except that a custodian may not  
41 deny inspection of a government record or part thereof that gives  
42 the name, title, expenditures, source and amounts of funding and  
43 date when the final project summary of any research will be  
44 available;

45 test questions, scoring keys and other examination data  
46 pertaining to the administration of an examination for employment  
47 or academic examination;

1 records of pursuit of charitable contributions or records  
2 containing the identity of a donor of a gift if the donor requires non-  
3 disclosure of the donor's identity as a condition of making the gift  
4 provided that the donor has not received any benefits of or from the  
5 institution of higher education in connection with such gift other  
6 than a request for memorialization or dedication;

7 valuable or rare collections of books and/or documents obtained  
8 by gift, grant, bequest or devise conditioned upon limited public  
9 access;

10 information contained on individual admission applications; and  
11 information concerning student records or grievance or  
12 disciplinary proceedings against a student to the extent disclosure  
13 would reveal the identity of the student.

14 "Personal firearms record" means any <sup>1</sup>information contained in  
15 a<sup>1</sup> background investigation conducted by the chief of police, the  
16 county prosecutor, or the Superintendent of State Police, of any  
17 applicant for a permit to purchase a handgun, firearms identification  
18 card license, or firearms registration; any application for a permit to  
19 purchase a handgun, firearms identification card license, or firearms  
20 registration; any document reflecting the issuance or denial of a  
21 permit to purchase a handgun, firearms identification card license,  
22 or firearms registration; and any permit to purchase a handgun,  
23 firearms identification card license, or any firearms license,  
24 certification, certificate, form of register, or registration statement.

25 <sup>1</sup>For the purposes of this paragraph, information contained in a  
26 background investigation shall include, but not be limited to,  
27 identity, name, address, social security number, phone number, fax  
28 number, driver's license number, email address, social media  
29 address of any applicant, licensee, registrant or permit holder.<sup>1</sup>

30 "Public agency" or "agency" means any of the principal  
31 departments in the Executive Branch of State Government, and any  
32 division, board, bureau, office, commission or other instrumentality  
33 within or created by such department; the Legislature of the State  
34 and any office, board, bureau or commission within or created by  
35 the Legislative Branch; and any independent State authority,  
36 commission, instrumentality or agency. The terms also mean any  
37 political subdivision of the State or combination of political  
38 subdivisions, and any division, board, bureau, office, commission or  
39 other instrumentality within or created by a political subdivision of  
40 the State or combination of political subdivisions, and any  
41 independent authority, commission, instrumentality or agency  
42 created by a political subdivision or combination of political  
43 subdivisions.

44 "Law enforcement agency" means a public agency, or part  
45 thereof, determined by the Attorney General to have law  
46 enforcement responsibilities.

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

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

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

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

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

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

25 (cf: P.L.2005, c.170, s.1)

26

27 <sup>2</sup>【3. Section 9 of P.L.2001, c.404 (C.47:1A-8) is amended to read  
28 as follows:

29 9. Nothing contained in P.L.1963, c.73 (C.47:1A-1 et seq.), as  
30 amended and supplemented, shall be construed as limiting the  
31 common law right of access to a government record, including  
32 criminal investigatory records of a law enforcement agency ;  
33 provided, however, that any common law right of access to a  
34 personal firearms record is abolished.

35 (cf: P.L.2001, c.404, s.9)】<sup>2</sup>

36

37 <sup>2</sup>【4.】2.<sup>2</sup> This act shall take effect immediately.