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

SYNOPSIS
Exempts law enforcement camera and 9-1-1 recordings from State’s open public records law.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning certain recordings and amending P.L.1995, c.23.

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

1. Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended to read as follows:
   1. As used in P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented:

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

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

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

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

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

any memorandum, correspondence, notes, report or other 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.
the Legislature in the course of the member's official duties, except
that this provision shall not apply to an otherwise publicly-
accessible report which is required by law to be submitted to the
Legislature or its members;
    any copy, reproduction or facsimile of any photograph, negative
or print, including instant photographs and videotapes of the body,
or any portion of the body, of a deceased person, taken by or for the
medical examiner at the scene of death or in the course of a post
mortem examination or autopsy made by or caused to be made by
the medical examiner except:
    when used in a criminal action or proceeding in this State which
relates to the death of that person,
    for the use as a court of this State permits, by order after good
cause has been shown and after written notification of the request
for the court order has been served at least five days before the
order is made upon the county prosecutor for the county in which
the post mortem examination or autopsy occurred,
    for use in the field of forensic pathology or for use in medical or
scientific education or research, or
    for use by any law enforcement agency in this State or any other
state or federal law enforcement agency;

law enforcement camera recordings, except for use by any
person authorized by law to have access to the recordings or for use
by any government agency, including any court or law enforcement
agency, for purposes of the administration of justice;
    9-1-1 audio recordings or transcripts of a 9-1-1 call;
    victims' records, except that a victim of a crime shall have access
to the victim's own records;
    any written request by a crime victim for a record to which the
victim is entitled to access as provided in this section, including,
but not limited to, any law enforcement agency report, domestic
violence offense report, and temporary or permanent restraining
order;
    personal firearms records, except for use by any person
authorized by law to have access to these records or for use by any
government agency, including any court or law enforcement
agency, for purposes of the administration of justice;
    personal identifying information received by the Division of Fish
and Wildlife in the Department of Environmental Protection in
connection with the issuance of any license authorizing hunting
with a firearm. For the purposes of this paragraph, personal
identifying information shall include, but not be limited to, identity,
name, address, social security number, telephone number, fax
number, driver's license number, email address, or social media
address of any applicant or licensee;
trade secrets and proprietary commercial or financial information
obtained from any source. For the purposes of this paragraph, trade
secrets shall include data processing software obtained by a public body under a licensing agreement which prohibits its disclosure;

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

administrative or technical information relating to computer hardware, software and networks which, if disclosed, would jeopardize computer security;

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

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

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

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

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

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

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

any copy of an oath of allegiance, oath of office or any affirmation taken upon assuming the duties of any public office, or that oath or affirmation, taken by a current or former officer or employee in any public office or position in this State or in any county or municipality of this State, including members of the Legislative Branch, Executive Branch, Judicial Branch, and all law enforcement entities, except that the full name, title, and oath date of that person contained therein shall not be deemed confidential; and

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

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

- pedagogical, scholarly and/or academic research records and/or the specific details of any research project conducted under the auspices of a public higher education institution in New Jersey, including, but not limited to research, development information, testing procedures, or information regarding test participants, related to the development or testing of any pharmaceutical or pharmaceutical delivery system, except that a custodian may not deny inspection of a government record or part thereof that gives the name, title, expenditures, source and amounts of funding and date when the final project summary of any research will be available;
- test questions, scoring keys and other examination data pertaining to the administration of an examination for employment or academic examination;
- records of pursuit of charitable contributions or records containing the identity of a donor of a gift if the donor requires non-disclosure of the donor's identity as a condition of making the gift provided that the donor has not received any benefits of or from the institution of higher education in connection with such gift other than a request for memorialization or dedication;
- valuable or rare collections of books and/or documents obtained by gift, grant, bequest or devise conditioned upon limited public access;
- information contained on individual admission applications; and information concerning student records or grievance or disciplinary proceedings against a student to the extent disclosure would reveal the identity of the student.

"Personal firearms record" means any information contained in a background investigation conducted by the chief of police, the county prosecutor, or the Superintendent of State Police, of any applicant for a permit to purchase a handgun, firearms identification
card license, or firearms registration; any application for a permit to
purchase a handgun, firearms identification card license, or firearms
registration; any document reflecting the issuance or denial of a
permit to purchase a handgun, firearms identification card license,
or firearms registration; and any permit to purchase a handgun,
firearms identification card license, or any firearms license,
qualification, certificate, form of register, or registration statement.
For the purposes of this paragraph, information contained in a
background investigation shall include, but not be limited to,
identity, name, address, social security number, phone number, fax
number, driver's license number, email address, social media
address of any applicant, licensee, registrant or permit holder.
"Public agency" or "agency" means any of the principal
departments in the Executive Branch of State Government, and any
division, board, bureau, office, commission or other instrumentality
within or created by such department; the Legislature of the State
and any office, board, bureau or commission within or created by
the Legislative Branch; and any independent State authority,
commission, instrumentality or agency. The terms also mean any
political subdivision of the State or combination of political
subdivisions, and any division, board, bureau, office, commission or
other instrumentality within or created by a political subdivision of
the State or combination of political subdivisions, and any
independent authority, commission, instrumentality or agency
created by a political subdivision or combination of political
subdivisions.
"Law enforcement agency" means a public agency, or part
thereof, determined by the Attorney General to have law
enforcement responsibilities.
"Constituent" means any State resident or other person
communicating with a member of the Legislature.
"Member of the Legislature" means any person elected or
selected to serve in the New Jersey Senate or General Assembly.
"Criminal investigatory record" means a record which is not
required by law to be made, maintained or kept on file that is held
by a law enforcement agency which pertains to any criminal
investigation or related civil enforcement proceeding.
"Victim's record" means an individually-identifiable file or
document held by a victims' rights agency which pertains directly to
a victim of a crime except that a victim of a crime shall have access
to the victim's own records.
"Victim of a crime" means a person who has suffered personal or
psychological injury or death or incurs loss of or injury to personal
or real property as a result of a crime, or if such a person is
deceased or incapacitated, a member of that person's immediate
family.
"Victims' rights agency" means a public agency, or part thereof,
the primary responsibility of which is providing services, including
but not limited to food, shelter, or clothing, medical, psychiatric, psychological or legal services or referrals, information and referral services, counseling and support services, or financial services to victims of crimes, including victims of sexual assault, domestic violence, violent crime, child endangerment, child abuse or child neglect, and the Victims of Crime Compensation Board, established pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as the Victims of Crime Compensation Office pursuant to P.L.2007, c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.

2. This act shall take effect immediately.

STATEMENT

This bill creates an exemption to the State’s open public records law for law enforcement camera recordings and 9-1-1 audio recordings or transcripts.

Specifically, the bill provides that law enforcement camera recordings and 9-1-1 audio recordings or transcripts of a 9-1-1 call are not included as government records under the Open Public Records Act (OPRA) and, therefore, would not be available to the public.

The law enforcement camera recordings would be available, however, for use by any person authorized by law to have access to the recordings or for use by any government agency, including any court or law enforcement agency, for purposes of the administration of justice.