

**ASSEMBLY, No. 1937**

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**STATE OF NEW JERSEY**

**218th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Assemblyman CLINTON CALABRESE**

**District 36 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblywoman Chaparro and Assemblyman Coughlin**

**SYNOPSIS**

Exempts certain health information contained in 9-1-1 calls from definition of government record.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 3/13/2018)**

1    **AN ACT** concerning 9-1-1 calls and amending P.L.1995, c.23.

2

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

5

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

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

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

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

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

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

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

43       any memorandum, correspondence, notes, report or other  
44 communication prepared by, or for, the specific use of a member of  
45 the Legislature in the course of the member's official duties, except

**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 that this provision shall not apply to an otherwise publicly-  
2 accessible report which is required by law to be submitted to the  
3 Legislature or its members;  
4 any copy, reproduction or facsimile of any photograph, negative  
5 or print, including instant photographs and videotapes of the body,  
6 or any portion of the body, of a deceased person, taken by or for the  
7 medical examiner at the scene of death or in the course of a post  
8 mortem examination or autopsy made by or caused to be made by  
9 the medical examiner except:  
10 when used in a criminal action or proceeding in this State which  
11 relates to the death of that person,  
12 for the use as a court of this State permits, by order after good  
13 cause has been shown and after written notification of the request  
14 for the court order has been served at least five days before the  
15 order is made upon the county prosecutor for the county in which  
16 the post mortem examination or autopsy occurred,  
17 for use in the field of forensic pathology or for use in medical or  
18 scientific education or research, or  
19 for use by any law enforcement agency in this State or any other  
20 state or federal law enforcement agency;  
21 criminal investigatory records;  
22 victims' records, except that a victim of a crime shall have access  
23 to the victim's own records;  
24 any written request by a crime victim for a record to which the  
25 victim is entitled to access as provided in this section, including,  
26 but not limited to, any law enforcement agency report, domestic  
27 violence offense report, and temporary or permanent restraining  
28 order;  
29 personal firearms records, except for use by any person  
30 authorized by law to have access to these records or for use by any  
31 government agency, including any court or law enforcement  
32 agency, for purposes of the administration of justice;  
33 personal identifying information received by the Division of Fish  
34 and Wildlife in the Department of Environmental Protection in  
35 connection with the issuance of any license authorizing hunting  
36 with a firearm. For the purposes of this paragraph, personal  
37 identifying information shall include, but not be limited to, identity,  
38 name, address, social security number, telephone number, fax  
39 number, driver's license number, email address, or social media  
40 address of any applicant or licensee;  
41 any part of a 9-1-1 audio recording or transcript of a 9-1-1 call  
42 that discloses a person's health status; medical conditions including  
43 diseases, illnesses, disorders, diagnoses, disabilities, or injuries;  
44 receipt of health care services or treatments; medical history;  
45 genetic information; or current health insurance contract, policy, or  
46 plan information;  
47 trade secrets and proprietary commercial or financial information  
48 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 any copy of an oath of allegiance, oath of office or any  
38 affirmation taken upon assuming the duties of any public office, or  
39 that oath or affirmation, taken by a current or former officer or  
40 employee in any public office or position in this State or in any  
41 county or municipality of this State, including members of the  
42 Legislative Branch, Executive Branch, Judicial Branch, and all law  
43 enforcement entities, except that the full name, title, and oath date  
44 of that person contained therein shall not be deemed confidential;  
45 and  
46 that portion of any document which discloses the social security  
47 number, credit card number, unlisted telephone number or driver  
48 license number of any person; except for use by any government

1 agency, including any court or law enforcement agency, in carrying  
2 out its functions, or any private person or entity acting on behalf  
3 thereof, or any private person or entity seeking to enforce payment  
4 of court-ordered child support; except with respect to the disclosure  
5 of driver information by the New Jersey Motor Vehicle  
6 Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-  
7 3.4); and except that a social security number contained in a record  
8 required by law to be made, maintained or kept on file by a public  
9 agency shall be disclosed when access to the document or  
10 disclosure of that information is not otherwise prohibited by State  
11 or federal law, regulation or order or by State statute, resolution of  
12 either or both houses of the Legislature, Executive Order of the  
13 Governor, rule of court or regulation promulgated under the  
14 authority of any statute or executive order of the Governor.

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

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

29 test questions, scoring keys and other examination data  
30 pertaining to the administration of an examination for employment  
31 or academic examination;

32 records of pursuit of charitable contributions or records  
33 containing the identity of a donor of a gift if the donor requires non-  
34 disclosure of the donor's identity as a condition of making the gift  
35 provided that the donor has not received any benefits of or from the  
36 institution of higher education in connection with such gift other  
37 than a request for memorialization or dedication;

38 valuable or rare collections of books and/or documents obtained  
39 by gift, grant, bequest or devise conditioned upon limited public  
40 access;

41 information contained on individual admission applications; and  
42 information concerning student records or grievance or  
43 disciplinary proceedings against a student to the extent disclosure  
44 would reveal the identity of the student.

45 "Personal firearms record" means any information contained in a  
46 background investigation conducted by the chief of police, the  
47 county prosecutor, or the Superintendent of State Police, of any  
48 applicant for a permit to purchase a handgun, firearms identification

1 card license, or firearms registration; any application for a permit to  
2 purchase a handgun, firearms identification card license, or firearms  
3 registration; any document reflecting the issuance or denial of a  
4 permit to purchase a handgun, firearms identification card license,  
5 or firearms registration; and any permit to purchase a handgun,  
6 firearms identification card license, or any firearms license,  
7 certification, certificate, form of register, or registration statement.  
8 For the purposes of this paragraph, information contained in a  
9 background investigation shall include, but not be limited to,  
10 identity, name, address, social security number, phone number, fax  
11 number, driver's license number, email address, social media  
12 address of any applicant, licensee, registrant or permit holder.

13 "Public agency" or "agency" means any of the principal  
14 departments in the Executive Branch of State Government, and any  
15 division, board, bureau, office, commission or other instrumentality  
16 within or created by such department; the Legislature of the State  
17 and any office, board, bureau or commission within or created by  
18 the Legislative Branch; and any independent State authority,  
19 commission, instrumentality or agency. The terms also mean any  
20 political subdivision of the State or combination of political  
21 subdivisions, and any division, board, bureau, office, commission or  
22 other instrumentality within or created by a political subdivision of  
23 the State or combination of political subdivisions, and any  
24 independent authority, commission, instrumentality or agency  
25 created by a political subdivision or combination of political  
26 subdivisions.

27 "Law enforcement agency" means a public agency, or part  
28 thereof, determined by the Attorney General to have law  
29 enforcement responsibilities.

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

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

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

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

42 "Victim of a crime" means a person who has suffered personal or  
43 psychological injury or death or incurs loss of or injury to personal  
44 or real property as a result of a crime, or if such a person is  
45 deceased or incapacitated, a member of that person's immediate  
46 family.

47 "Victims' rights agency" means a public agency, or part thereof,  
48 the primary responsibility of which is providing services, including

1 but not limited to food, shelter, or clothing, medical, psychiatric,  
2 psychological or legal services or referrals, information and referral  
3 services, counseling and support services, or financial services to  
4 victims of crimes, including victims of sexual assault, domestic  
5 violence, violent crime, child endangerment, child abuse or child  
6 neglect, and the Victims of Crime Compensation Board, established  
7 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as  
8 the Victims of Crime Compensation Office pursuant to P.L.2007,  
9 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.  
10 (cf: P.L.2015, c.59, s.1)

11

12 2. This act shall take effect immediately.

13

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15 STATEMENT

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17 Under current law, 9-1-1 audio recordings and transcripts are  
18 generally considered government records which are available for  
19 inspection, copying, and examination by the public.

20 This bill would make confidential any part of a 9-1-1 audio  
21 recording or transcript that disclosed a person's health status,  
22 medical conditions, health care services or treatments, medical  
23 history, genetic information, or current health insurance plan  
24 information by excluding it from the definition of a government  
25 record.