

**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, Assemblymen Coughlin and Webber**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As reported by the Assembly Consumer Affairs Committee with technical review.



**(Sponsorship Updated As Of: 1/16/2019)**

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 read  
7 as follows:

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

10 "Biotechnology" means any technique that uses living organisms,  
11 or parts of living organisms, to make or modify products, to improve  
12 plants or animals, or to develop micro-organisms for specific uses;  
13 including the industrial use of recombinant DNA, cell fusion, and  
14 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 other  
17 public agency, the officer officially designated by formal action of that  
18 agency's director or governing body, as the case may be.

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

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

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

41 any memorandum, correspondence, notes, report or other  
42 communication prepared by, or for, the specific use of a member of the  
43 Legislature in the course of the member's official duties, except that  
44 this provision shall not apply to an otherwise publicly-accessible

**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 report which is required by law to be submitted to the Legislature or its  
2 members;

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

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

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

16 for use in the field of forensic pathology or for use in medical or  
17 scientific education or research, or

18 for use by any law enforcement agency in this State or any other  
19 state or federal law enforcement agency;

20 criminal investigatory records;

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

23 any written request by a crime victim for a record to which the  
24 victim is entitled to access as provided in this section, including, but  
25 not limited to, any law enforcement agency report, domestic violence  
26 offense report, and temporary or permanent restraining order;

27 personal firearms records, except for use by any person authorized  
28 by law to have access to these records or for use by any government  
29 agency, including any court or law enforcement agency, for purposes  
30 of the administration of justice;

31 personal identifying information received by the Division of Fish  
32 and Wildlife in the Department of Environmental Protection in  
33 connection with the issuance of any license authorizing hunting with a  
34 firearm. For the purposes of this paragraph, personal identifying  
35 information shall include, but not be limited to, identity, name,  
36 address, social security number, telephone number, fax number,  
37 driver's license number, email address, or social media address of any  
38 applicant or licensee;

39 any part of a 9-1-1 audio recording or transcript of a 9-1-1 call that  
40 discloses a person's health status; medical conditions including  
41 diseases, illnesses, disorders, diagnoses, disabilities, or injuries; receipt  
42 of health care services or treatments; medical history; genetic  
43 information; or current health insurance contract, policy, or plan  
44 information;

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

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

5 administrative or technical information regarding computer  
6 hardware, software and networks which, if disclosed, would jeopardize  
7 computer security;

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

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

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

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

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

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

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

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

41 that portion of any document which discloses the social security  
42 number, credit card number, unlisted telephone number or driver  
43 license number of any person; except for use by any government  
44 agency, including any court or law enforcement agency, in carrying  
45 out its functions, or any private person or entity acting on behalf  
46 thereof, or any private person or entity seeking to enforce payment of  
47 court-ordered child support; except with respect to the disclosure of  
48 driver information by the New Jersey Motor Vehicle Commission as

1 permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4); and except that  
2 a social security number contained in a record required by law to be  
3 made, maintained or kept on file by a public agency shall be disclosed  
4 when access to the document or disclosure of that information is not  
5 otherwise prohibited by State or federal law, regulation or order or by  
6 State statute, resolution of either or both houses of the Legislature,  
7 Executive Order of the Governor, rule of court or regulation  
8 promulgated under the authority of any statute or executive order of  
9 the Governor;

10 A list of persons identifying themselves as being in need of special  
11 assistance in the event of an emergency maintained by a municipality  
12 for public safety purposes pursuant to section 1 of P.L.2017, c.266  
13 (C.40:48-2.67); and

14 A list of persons identifying themselves as being in need of special  
15 assistance in the event of an emergency maintained by a county for  
16 public safety purposes pursuant to section 6 of P.L.2011, c.178  
17 (C.App.A:9-43.13).

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

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

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

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

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

42 information contained on individual admission applications; and

43 information concerning student records or grievance or  
44 disciplinary proceedings against a student to the extent disclosure  
45 would reveal the identity of the student.

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

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

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

27 "Law enforcement agency" means a public agency, or part thereof,  
28 determined by the Attorney General to have law enforcement  
29 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 selected  
33 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 by a  
36 law enforcement agency which pertains to any criminal investigation  
37 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 a  
40 victim of a crime except that a victim of a crime shall have access to  
41 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 or  
44 real property as a result of a crime, or if such a person is deceased or  
45 incapacitated, a member of that person's immediate family.

46 "Victims' rights agency" means a public agency, or part thereof,  
47 the primary responsibility of which is providing services, including but  
48 not limited to food, shelter, or clothing, medical, psychiatric,

1 psychological or legal services or referrals, information and referral  
2 services, counseling and support services, or financial services to  
3 victims of crimes, including victims of sexual assault, domestic  
4 violence, violent crime, child endangerment, child abuse or child  
5 neglect, and the Victims of Crime Compensation Board, established  
6 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as the  
7 Victims of Crime Compensation Office pursuant to P.L.2007, c.95  
8 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.  
9 (cf: P.L.2017, c.266, s.4)

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11 2. This act shall take effect immediately.