

[First Reprint]

SENATE, No. 1232

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JANUARY 25, 2018

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Co-Sponsored by:

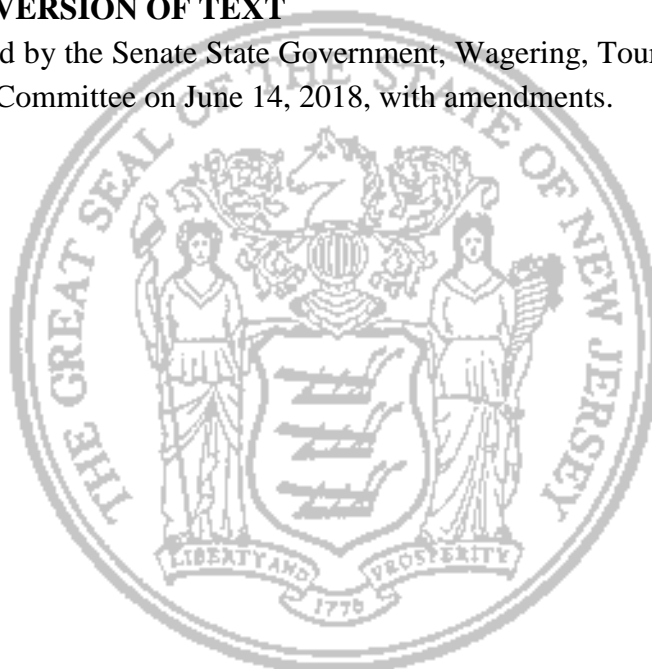
Senator Lagana

SYNOPSIS

Exempts certain personal information from State's open public records law; bars attorney's fees award in denial of access proceeding in certain circumstances.

CURRENT VERSION OF TEXT

As reported by the Senate State Government, Wagering, Tourism & Historic Preservation Committee on June 14, 2018, with amendments.



(Sponsorship Updated As Of: 8/26/2019)

1 AN ACT concerning public records and amending P.L.1995, c.23
2 and P.L.2001, c.404.

3

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

6

7 ¹[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
46 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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SSG committee amendments adopted June 14, 2018.

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; any copy, reproduction or facsimile of
4 any photograph, negative or print, including instant photographs
5 and videotapes of the body, or any portion of the body, of a
6 deceased person, taken by or for the medical examiner at the scene
7 of death or in the course of a post mortem examination or autopsy
8 made by or caused to be made by the medical 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
13 for the court order has been served at least five days before the
14 order is made upon the county prosecutor for the county in which
15 the post 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,
25 but not limited to, any law enforcement agency report, domestic
26 violence offense report, and temporary or permanent restraining
27 order;

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

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

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

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

1 administrative or technical information regarding computer
2 hardware, software and networks which, if disclosed, would
3 jeopardize computer security; emergency or security information or
4 procedures for any buildings or facility which, if disclosed, would
5 jeopardize security of the building or facility or persons therein;
6 security measures and surveillance techniques which, if
7 disclosed, would create a risk to the safety of persons, property,
8 electronic data or software;
9 information which, if disclosed, would give an advantage to
10 competitors or bidders;
11 information generated by or on behalf of public employers or
12 public employees in connection with any sexual harassment
13 complaint filed with a public employer or with any grievance filed
14 by or against an individual or in connection with collective
15 negotiations, including documents and statements of strategy or
16 negotiating position;
17 information which is a communication between a public agency
18 and its insurance carrier, administrative service organization or risk
19 management office;
20 information which is to be kept confidential pursuant to court
21 order;
22 any copy of form DD-214, or that form, issued by the United
23 States Government, or any other certificate of honorable discharge,
24 or copy thereof, from active service or the reserves of a branch of
25 the Armed Forces of the United States, or from service in the
26 organized militia of the State, that has been filed by an individual
27 with a public agency, except that a veteran or the veteran's spouse
28 or surviving spouse shall have access to the veteran's own records;
29 any copy of an oath of allegiance, oath of office or any
30 affirmation taken upon assuming the duties of any public office, or
31 that oath or affirmation, taken by a current or former officer or
32 employee in any public office or position in this State or in any
33 county or municipality of this State, including members of the
34 Legislative Branch, Executive Branch, Judicial Branch, and all law
35 enforcement entities, except that the full name, title, and oath date
36 of that person contained therein shall not be deemed confidential;
37 and
38 that portion of any document which discloses the social security
39 number, credit card number, unlisted telephone number, or driver
40 license number of any person and that portion of a personal
41 government record which discloses any personal identifying
42 information, including the name, address, telephone number, and e-
43 mail address 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
47 of court-ordered child support; except with respect to the disclosure
48 of driver information by the New Jersey Motor Vehicle
49 Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-

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

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

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

23 test questions, scoring keys and other examination data
24 pertaining to the administration of an examination for employment
25 or academic examination;

26 records of pursuit of charitable contributions or records
27 containing the identity of a donor of a gift if the donor requires non-
28 disclosure of the donor's identity as a condition of making the gift
29 provided that the donor has not received any benefits of or from the
30 institution of higher education in connection with such gift other
31 than a request for memorialization or dedication;

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

35 information contained on individual admission applications; and
36 information concerning student records or grievance or
37 disciplinary proceedings against a student to the extent disclosure
38 would reveal the identity of the student.

39 "Personal firearms record" means any information contained in a
40 background investigation conducted by the chief of police, the
41 county prosecutor, or the Superintendent of State Police, of any
42 applicant for a permit to purchase a handgun, firearms identification
43 card license, or firearms registration; any application for a permit to
44 purchase a handgun, firearms identification card license, or firearms
45 registration; any document reflecting the issuance or denial of a
46 permit to purchase a handgun, firearms identification card license,
47 or firearms registration; and any permit to purchase a handgun,
48 firearms identification card license, or any firearms license,
49 certification, certificate, form of register, or registration statement.

1 For the purposes of this paragraph, information contained in a
2 background investigation shall include, but not be limited to,
3 identity, name, address, social security number, phone number, fax
4 number, driver's license number, email address, social media
5 address of any applicant, licensee, registrant or permit holder.

6 "Personal government record" means a government record that
7 consists of or pertains solely to a pet or home alarm system permit,
8 license, or registration.

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

23 "Law enforcement agency" means a public agency, or part
24 thereof, determined by the Attorney General to have law
25 enforcement responsibilities.

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

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

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

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

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

43 "Victims' rights agency" means a public agency, or part thereof,
44 the primary responsibility of which is providing services, including
45 but not limited to food, shelter, or clothing, medical, psychiatric,
46 psychological or legal services or referrals, information and referral
47 services, counseling and support services, or financial services to
48 victims of crimes, including victims of sexual assault, domestic
49 violence, violent crime, child endangerment, child abuse or child

1 neglect, and the Victims of Crime Compensation Board, established
2 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as
3 the Victims of Crime Compensation Office pursuant to P.L.2007,
4 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.
5 (cf: P.L.2015, c.59, s.1)】¹

6
7 ¹1. 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
46 the Legislature in the course of the member's official duties, except
47 that this provision shall not apply to an otherwise publicly-
48 accessible report which is required by law to be submitted to the
49 Legislature or its members;

1 any copy, reproduction or facsimile of any photograph, negative
2 or print, including instant photographs and videotapes of the body,
3 or any portion of the body, of a deceased person, taken by or for the
4 medical examiner at the scene of death or in the course of a post
5 mortem examination or autopsy made by or caused to be made by
6 the medical examiner except:
7 when used in a criminal action or proceeding in this State which
8 relates to the death of that person,
9 for the use as a court of this State permits, by order after good
10 cause has been shown and after written notification of the request
11 for the court order has been served at least five days before the
12 order is made upon the county prosecutor for the county in which
13 the post mortem examination or autopsy occurred,
14 for use in the field of forensic pathology or for use in medical or
15 scientific education or research, or
16 for use by any law enforcement agency in this State or any other
17 state or federal law enforcement agency;
18 criminal investigatory records;
19 victims' records, except that a victim of a crime shall have access
20 to the victim's own records;
21 any written request by a crime victim for a record to which the
22 victim is entitled to access as provided in this section, including,
23 but not limited to, any law enforcement agency report, domestic
24 violence offense report, and temporary or permanent restraining
25 order;
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;
47 administrative or technical information regarding computer
48 hardware, software and networks which, if disclosed, would
49 jeopardize computer security;

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

1 disclosure of that information is not otherwise prohibited by State
2 or federal law, regulation or order or by State statute, resolution of
3 either or both houses of the Legislature, Executive Order of the
4 Governor, rule of court or regulation promulgated under the
5 authority of any statute or executive order of the Governor;

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

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

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

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

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

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

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

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

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

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

11 "Personal government record" means a government record that
12 consists of or pertains solely to a pet or home alarm system permit,
13 license, or registration.

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
18 and any office, board, bureau or commission within or created by
19 the Legislative Branch; and any independent State authority,
20 commission, instrumentality or agency. The terms also mean any
21 political subdivision of the State or combination of political
22 subdivisions, and any division, board, bureau, office, commission or
23 other instrumentality within or created by a political subdivision of
24 the State or combination of political subdivisions, and any
25 independent authority, commission, instrumentality or agency
26 created by a political subdivision or combination of political
27 subdivisions.

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

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

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

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

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

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

48 "Victims' rights agency" means a public agency, or part thereof,
49 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. 001-2008.¹
10 (cf: P.L.2017, c.266, s.4)

11

12 2. Section 7 of P.L.2001, c.404 (C.47:1A-6) is amended to read
13 as follows:

14 7. A person who is denied access to a government record by
15 the custodian of the record, at the option of the requestor, may:

16 institute a proceeding to challenge the custodian's decision by
17 filing an action in Superior Court which shall be heard in the
18 vicinage where it is filed by a Superior Court Judge who has been
19 designated to hear such cases because of that judge's knowledge and
20 expertise in matters relating to access to government records; or

21 in lieu of filing an action in Superior Court, file a complaint with
22 the Government Records Council established pursuant to section 8
23 of P.L.2001, c.404 (C.47:1A-7).

24 The right to institute any proceeding under this section shall be
25 solely that of the requestor. Any such proceeding shall proceed in a
26 summary or expedited manner. The public agency shall have the
27 burden of proving that the denial of access is authorized by law. If
28 it is determined that access has been improperly denied, the court or
29 agency head shall order that access be allowed. A requestor who
30 prevails in any proceeding shall be entitled to a reasonable
31 attorney's fee ; provided, however, that a requestor who prevails in
32 a proceeding concerning a personal government record shall not be
33 entitled to a reasonable attorney's fee if the court or agency head
34 finds that the decision to deny access was reasonable and made in
35 good faith after due diligence.

36 (cf: P.L.2001, c.404, s.7)

37

38 3. This act shall take effect immediately.