

[First Reprint]

**SENATE, No. 1232**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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INTRODUCED JANUARY 25, 2018

**Sponsored by:**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**Senator NILSA CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**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: 6/15/2018)**

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 <sup>1</sup>[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:**

<sup>1</sup>Senate 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)】<sup>1</sup>

6  
7 <sup>1</sup>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  
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.<sup>1</sup>  
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.