

# ASSEMBLY, No. 2154

## STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Assemblyman WILLIAM F. MOEN, JR.**

**District 5 (Camden and Gloucester)**

**Assemblyman JOE DANIELSEN**

**District 17 (Middlesex and Somerset)**

**SYNOPSIS**

Prohibits open public records requests for commercial purposes.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning open public records requests for commercial  
2 purposes, and amending P.L.1995, c.23, 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. Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended to read  
8 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 "Commercial purpose" means the direct or indirect use of any  
17 part of a government record for sale, resale, solicitation, rent or  
18 lease of a service, or any use by which the user expects a profit  
19 either through commission, salary, or fee. "Commercial purpose"  
20 shall not include using, distributing, gathering, procuring,  
21 transmitting, compiling, editing, disseminating, or publishing of  
22 information or data by the news media, or any parent, subsidiary, or  
23 affiliate of any news media, as defined by section 2 of P.L.1977,  
24 c.253 (C.2A:84A-21a), or by any news, journalistic, educational,  
25 scientific, scholarly, or governmental organization.

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

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

**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 A government record shall not include the following information  
2 which is deemed to be confidential for the purposes of P.L.1963,  
3 c.73 (C.47:1A-1 et seq.) as amended and supplemented:  
4 information received by a member of the Legislature from a  
5 constituent or information held by a member of the Legislature  
6 concerning a constituent, including but not limited to information in  
7 written form or contained in any e-mail or computer data base, or in  
8 any telephone record whatsoever, unless it is information the  
9 constituent is required by law to transmit;  
10 any memorandum, correspondence, notes, report or other  
11 communication prepared by, or for, the specific use of a member of  
12 the Legislature in the course of the member's official duties, except  
13 that this provision shall not apply to an otherwise publicly-  
14 accessible report which is required by law to be submitted to the  
15 Legislature or its members;  
16 any copy, reproduction or facsimile of any photograph, negative  
17 or print, including instant photographs and videotapes of the body,  
18 or any portion of the body, of a deceased person, taken by or for the  
19 medical examiner at the scene of death or in the course of a post  
20 mortem examination or autopsy made by or caused to be made by  
21 the medical examiner except:  
22 when used in a criminal action or proceeding in this State which  
23 relates to the death of that person,  
24 for the use as a court of this State permits, by order after good  
25 cause has been shown and after written notification of the request  
26 for the court order has been served at least five days before the  
27 order is made upon the county prosecutor for the county in which  
28 the post mortem examination or autopsy occurred,  
29 for use in the field of forensic pathology or for use in medical or  
30 scientific education or research, or  
31 for use by any law enforcement agency in this State or any other  
32 state or federal law enforcement agency;  
33 criminal investigatory records;  
34 the portion of any criminal record concerning a person's  
35 detection, apprehension, arrest, detention, trial or disposition for  
36 unlawful manufacturing, distributing, or dispensing, or possessing  
37 or having under control with intent to manufacture, distribute, or  
38 dispense, marijuana or hashish in violation of paragraph (11) of  
39 subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or  
40 hashish in violation of paragraph (12) of subsection b. of that  
41 section, or a violation of either of those paragraphs and a violation  
42 of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or  
43 subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for  
44 distributing, dispensing, or possessing, or having under control with  
45 intent to distribute or dispense, on or within 1,000 feet of any  
46 school property, or on or within 500 feet of the real property  
47 comprising a public housing facility, public park, or public  
48 building, or for obtaining, possessing, using, being under the

1 influence of, or failing to make lawful disposition of marijuana or  
2 hashish in violation of paragraph (3) or (4) of subsection a., or  
3 subsection b., or subsection c. of N.J.S.2C:35-10, or for a violation  
4 of any of those provisions and a violation of N.J.S.2C:36-2 for  
5 using or possessing with intent to use drug paraphernalia with that  
6 marijuana or hashish;

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

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

14 personal firearms records, except for use by any person  
15 authorized by law to have access to these records or for use by any  
16 government agency, including any court or law enforcement  
17 agency, for purposes of the administration of justice;

18 personal identifying information received by the Division of Fish  
19 and Wildlife in the Department of Environmental Protection in  
20 connection with the issuance of any license authorizing hunting  
21 with a firearm. For the purposes of this paragraph, personal  
22 identifying information shall include, but not be limited to, identity,  
23 name, address, social security number, telephone number, fax  
24 number, driver's license number, email address, or social media  
25 address of any applicant or licensee;

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

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

35 administrative or technical information regarding computer  
36 hardware, software and networks which, if disclosed, would  
37 jeopardize computer security;

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

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

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

46 information generated by or on behalf of public employers or  
47 public employees in connection with any sexual harassment  
48 complaint filed with a public employer or with any grievance filed

1 by or against an individual or in connection with collective  
2 negotiations, including documents and statements of strategy or  
3 negotiating position;  
4 information which is a communication between a public agency  
5 and its insurance carrier, administrative service organization or risk  
6 management office;  
7 information which is to be kept confidential pursuant to court  
8 order;  
9 any copy of form DD-214, NGB-22, or that form, issued by the  
10 United States Government, or any other certificate of honorable  
11 discharge, or copy thereof, from active service or the reserves of a  
12 branch of the Armed Forces of the United States, or from service in  
13 the organized militia of the State, that has been filed by an  
14 individual with a public agency, except that a veteran or the  
15 veteran's spouse or surviving spouse shall have access to the  
16 veteran's own records;  
17 any copy of an oath of allegiance, oath of office or any  
18 affirmation taken upon assuming the duties of any public office, or  
19 that oath or affirmation, taken by a current or former officer or  
20 employee in any public office or position in this State or in any  
21 county or municipality of this State, including members of the  
22 Legislative Branch, Executive Branch, Judicial Branch, and all law  
23 enforcement entities, except that the full name, title, and oath date  
24 of that person contained therein shall not be deemed confidential;  
25 that portion of any document which discloses the social security  
26 number, credit card number, unlisted telephone number or driver  
27 license number of any person, or that portion of any document  
28 which discloses the home address, whether a primary or secondary  
29 residence, of any active, formerly active, or retired judicial officer  
30 or prosecutor, and any active, formerly active, or retired law  
31 enforcement officer; except for use by any government agency,  
32 including any court or law enforcement agency, in carrying out its  
33 functions, or any private person or entity acting on behalf thereof,  
34 or any private person or entity seeking to enforce payment of court-  
35 ordered child support; except with respect to the disclosure of driver  
36 information by the New Jersey Motor Vehicle Commission as  
37 permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4); and except  
38 that a social security number contained in a record required by law  
39 to be made, maintained or kept on file by a public agency shall be  
40 disclosed when access to the document or disclosure of that  
41 information is not otherwise prohibited by State or federal law,  
42 regulation or order or by State statute, resolution of either or both  
43 houses of the Legislature, Executive Order of the Governor, rule of  
44 court or regulation promulgated under the authority of any statute or  
45 executive order of the Governor;  
46 a list of persons identifying themselves as being in need of  
47 special assistance in the event of an emergency maintained by a

1 municipality for public safety purposes pursuant to section 1 of  
2 P.L.2017, c.266 (C.40:48-2.67); and  
3 a list of persons identifying themselves as being in need of  
4 special assistance in the event of an emergency maintained by a  
5 county for public safety purposes pursuant to section 6 of P.L.2011,  
6 c.178 (C. App.A:9-43.13).  
7 A government record shall not include, with regard to any public  
8 institution of higher education, the following information which is  
9 deemed to be privileged and confidential:  
10 pedagogical, scholarly and/or academic research records and/or  
11 the specific details of any research project conducted under the  
12 auspices of a public higher education institution in New Jersey,  
13 including, but not limited to research, development information,  
14 testing procedures, or information regarding test participants,  
15 related to the development or testing of any pharmaceutical or  
16 pharmaceutical delivery system, except that a custodian may not  
17 deny inspection of a government record or part thereof that gives  
18 the name, title, expenditures, source and amounts of funding and  
19 date when the final project summary of any research will be  
20 available;  
21 test questions, scoring keys and other examination data  
22 pertaining to the administration of an examination for employment  
23 or academic examination;  
24 records of pursuit of charitable contributions or records  
25 containing the identity of a donor of a gift if the donor requires non-  
26 disclosure of the donor's identity as a condition of making the gift  
27 provided that the donor has not received any benefits of or from the  
28 institution of higher education in connection with such gift other  
29 than a request for memorialization or dedication;  
30 valuable or rare collections of books or documents obtained by  
31 gift, grant, bequest or devise conditioned upon limited public  
32 access;  
33 information contained on individual admission applications; and  
34 information concerning student records or grievance or  
35 disciplinary proceedings against a student to the extent disclosure  
36 would reveal the identity of the student.  
37 "Personal firearms record" means any information contained in a  
38 background investigation conducted by the chief of police, the  
39 county prosecutor, or the Superintendent of State Police, of any  
40 applicant for a permit to purchase a handgun, firearms identification  
41 card license, or firearms registration; any application for a permit to  
42 purchase a handgun, firearms identification card license, or firearms  
43 registration; any document reflecting the issuance or denial of a  
44 permit to purchase a handgun, firearms identification card license,  
45 or firearms registration; and any permit to purchase a handgun,  
46 firearms identification card license, or any firearms license,  
47 certification, certificate, form of register, or registration statement.  
48 For the purposes of this paragraph, information contained in a

1 background investigation shall include, but not be limited to,  
2 identity, name, address, social security number, phone number, fax  
3 number, driver's license number, email address, social media  
4 address of any applicant, licensee, registrant or permit holder.

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

19 "Law enforcement agency" means a public agency, or part  
20 thereof, determined by the Attorney General to have law  
21 enforcement responsibilities.

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

24 "Judicial officer" means any active, formerly active, or retired  
25 federal, state, county, or municipal judge, including a judge of the  
26 Tax Court and any other court of limited jurisdiction established,  
27 altered, or abolished by law, a judge of the Office of Administrative  
28 Law, a judge of the Division of Workers' Compensation, and any  
29 other judge established by law who serves in the executive branch.

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

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

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

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

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

1 services, counseling and support services, or financial services to  
2 victims of crimes, including victims of sexual assault, domestic  
3 violence, violent crime, child endangerment, child abuse or child  
4 neglect, and the Victims of Crime Compensation Board, established  
5 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as  
6 the Victims of Crime Compensation Office pursuant to P.L.2007,  
7 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.  
8 (cf: P.L.2021, c.24, s.1)

9

10 2. Section 6 of P.L.2001, c.404 (C.47:1A-5) is amended to read  
11 as follows:

12 6. a. The custodian of a government record shall permit the  
13 record to be inspected, examined, and copied by any person during  
14 regular business hours; or in the case of a municipality having a  
15 population of 5,000 or fewer according to the most recent federal  
16 decennial census, a board of education having a total district  
17 enrollment of 500 or fewer, or a public authority having less than  
18 \$10 million in assets, during not less than six regular business hours  
19 over not less than three business days per week or the entity's  
20 regularly-scheduled business hours, whichever is less; unless a  
21 government record is exempt from public access by: P.L.1963, c.73  
22 (C.47:1A-1 et seq.) as amended and supplemented; any other  
23 statute; resolution of either or both houses of the Legislature;  
24 regulation promulgated under the authority of any statute or  
25 Executive Order of the Governor; Executive Order of the Governor;  
26 Rules of Court; any federal law; federal regulation; or federal order.  
27 Prior to allowing access to any government record, the custodian  
28 thereof shall redact from that record any information which  
29 discloses the social security number, credit card number, unlisted  
30 telephone number, or driver license number of any person, or the  
31 home address, whether a primary or secondary residence, of any  
32 active, formerly active, or retired judicial officer or prosecutor, and  
33 any active, formerly active, or retired law enforcement officer;  
34 except for use by any government agency, including any court or  
35 law enforcement agency, in carrying out its functions, or any  
36 private person or entity acting on behalf thereof, or any private  
37 person or entity seeking to enforce payment of court-ordered child  
38 support; except with respect to the disclosure of driver information  
39 by the New Jersey Motor Vehicle Commission as permitted by  
40 section 2 of P.L.1997, c.188 (C.39:2-3.4); and except that a social  
41 security number contained in a record required by law to be made,  
42 maintained or kept on file by a public agency shall be disclosed  
43 when access to the document or disclosure of that information is not  
44 otherwise prohibited by State or federal law, regulation or order or  
45 by State statute, resolution of either or both houses of the  
46 Legislature, Executive Order of the Governor, rule of court or  
47 regulation promulgated under the authority of any statute or  
48 executive order of the Governor. Except where an agency can



1 demonstrate an emergent need, a regulation that limits access to  
2 government records shall not be retroactive in effect or applied to  
3 deny a request for access to a government record that is pending  
4 before the agency, the council or a court at the time of the adoption  
5 of the regulation.

6 b. (1) A copy or copies of a government record may be  
7 purchased by any person upon payment of the fee prescribed by law  
8 or regulation. Except as otherwise provided by law or regulation  
9 and except as provided in paragraph (2) of this subsection, the fee  
10 assessed for the duplication of a government record embodied in the  
11 form of printed matter shall be \$0.05 per letter size page or smaller,  
12 and \$0.07 per legal size page or larger. If a public agency can  
13 demonstrate that its actual costs for duplication of a government  
14 record exceed the foregoing rates, the public agency shall be  
15 permitted to charge the actual cost of duplicating the record. The  
16 actual cost of duplicating the record, upon which all copy fees are  
17 based, shall be the cost of materials and supplies used to make a  
18 copy of the record, but shall not include the cost of labor or other  
19 overhead expenses associated with making the copy except as  
20 provided for in subsection c. of this section. Access to electronic  
21 records and non-printed materials shall be provided free of charge,  
22 but the public agency may charge for the actual costs of any needed  
23 supplies such as computer discs.

24 (2) No fee shall be charged to a victim of a crime for a copy or  
25 copies of a record to which the crime victim is entitled to access, as  
26 provided in section 1 of P.L.1995, c.23 (C.47:1A-1.1).

27 c. Whenever the nature, format, manner of collation, or volume  
28 of a government record embodied in the form of printed matter to  
29 be inspected, examined, or copied pursuant to this section is such  
30 that the record cannot be reproduced by ordinary document copying  
31 equipment in ordinary business size or involves an extraordinary  
32 expenditure of time and effort to accommodate the request, the  
33 public agency may charge, in addition to the actual cost of  
34 duplicating the record, a special service charge that shall be  
35 reasonable and shall be based upon the actual direct cost of  
36 providing the copy or copies; provided, however, that in the case of  
37 a municipality, rates for the duplication of particular records when  
38 the actual cost of copying exceeds the foregoing rates shall be  
39 established in advance by ordinance. The requestor shall have the  
40 opportunity to review and object to the charge prior to it being  
41 incurred

42 d. A custodian shall permit access to a government record and  
43 provide a copy thereof in the medium requested if the public agency  
44 maintains the record in that medium. If the public agency does not  
45 maintain the record in the medium requested, the custodian shall  
46 either convert the record to the medium requested or provide a copy  
47 in some other meaningful medium. If a request is for a record: (1)  
48 in a medium not routinely used by the agency; (2) not routinely

1 developed or maintained by an agency; or (3) requiring a substantial  
2 amount of manipulation or programming of information technology,  
3 the agency may charge, in addition to the actual cost of duplication,  
4 a special charge that shall be reasonable and shall be based on the  
5 cost for any extensive use of information technology, or for the  
6 labor cost of personnel providing the service, that is actually  
7 incurred by the agency or attributable to the agency for the  
8 programming, clerical, and supervisory assistance required, or both.

9 e. Immediate access ordinarily shall be granted to budgets,  
10 bills, vouchers, contracts, including collective negotiations  
11 agreements and individual employment contracts, and public  
12 employee salary and overtime information.

13 f. The custodian of a public agency shall adopt a form for the  
14 use of any person who requests access to a government record held  
15 or controlled by the public agency. The form shall provide space  
16 for the name, address, and [phone] telephone number of the  
17 requestor and a brief description of the government record sought.  
18 The form shall also include space for a requestor to certify that the  
19 information will not be used for a commercial purpose. The form  
20 shall include space for the custodian to indicate which record will  
21 be made available, when the record will be available, and the fees to  
22 be charged. The form shall also include the following: (1) specific  
23 directions and procedures for requesting a record; (2) a statement as  
24 to whether prepayment of fees or a deposit is required; (3) the time  
25 period within which the public agency is required by P.L.1963, c.73  
26 (C.47:1A-1 et seq.) as amended and supplemented, to make the  
27 record available; (4) a statement of the requestor's right to challenge  
28 a decision by the public agency to deny access and the procedure  
29 for filing an appeal; (5) space for the custodian to list reasons if a  
30 request is denied in whole or in part; (6) space for the requestor to  
31 sign and date the form; (7) space for the custodian to sign and date  
32 the form if the request is fulfilled or denied. The custodian may  
33 require a deposit against costs for reproducing documents sought  
34 through an anonymous request whenever the custodian anticipates  
35 that the information thus requested will cost in excess of \$5 to  
36 reproduce.

37 g. A request for access to a government record shall be in  
38 writing and hand-delivered, mailed, transmitted electronically, or  
39 otherwise conveyed to the appropriate custodian.

40 A custodian shall promptly comply with a request to inspect,  
41 examine, copy, or provide a copy of a government record. If the  
42 custodian is unable to comply with a request for access, the  
43 custodian shall indicate the specific basis therefor on the request  
44 form and promptly return it to the requestor. The custodian shall  
45 sign and date the form and provide the requestor with a copy  
46 thereof. If the custodian of a government record asserts that part of  
47 a particular record is exempt from public access pursuant to  
48 P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented,

1 the custodian shall delete or excise from a copy of the record that  
2 portion which the custodian asserts is exempt from access and shall  
3 promptly permit access to the remainder of the record. If the  
4 government record requested is temporarily unavailable because it  
5 is in use or in storage, the custodian shall so advise the requestor  
6 and shall make arrangements to promptly make available a copy of  
7 the record. If a request for access to a government record would  
8 substantially disrupt agency operations, the custodian may deny  
9 access to the record after attempting to reach a reasonable solution  
10 with the requestor that accommodates the interests of the requestor  
11 and the agency.

12 h. Any officer or employee of a public agency who receives a  
13 request for access to a government record shall forward the request  
14 to the custodian of the record or direct the requestor to the  
15 custodian of the record.

16 i. (1) Unless a shorter time period is otherwise provided by  
17 statute, regulation, or executive order, a custodian of a government  
18 record shall grant access to a government record or deny a request  
19 for access to a government record as soon as possible, but not later  
20 than seven business days after receiving the request, provided that  
21 the record is currently available and not in storage or archived. In  
22 the event a custodian fails to respond within seven business days  
23 after receiving a request, the failure to respond shall be deemed a  
24 denial of the request, unless the requestor has elected not to provide  
25 a name, address or telephone number, or other means of contacting  
26 the requestor. If the requestor has elected not to provide a name,  
27 address, or telephone number, or other means of contacting the  
28 requestor, the custodian shall not be required to respond until the  
29 requestor reappears before the custodian seeking a response to the  
30 original request. If the government record is in storage or archived,  
31 the requestor shall be so advised within seven business days after  
32 the custodian receives the request. The requestor shall be advised  
33 by the custodian when the record can be made available. If the  
34 record is not made available by that time, access shall be deemed  
35 denied.

36 (2) During a period declared pursuant to the laws of this State as a  
37 state of emergency, public health emergency, or state of local  
38 disaster emergency, the deadlines by which to respond to a request  
39 for, or grant or deny access to, a government record under  
40 paragraph (1) of this subsection or subsection e. of this section shall  
41 not apply, provided, however, that the custodian of a government  
42 record shall make a reasonable effort, as the circumstances permit,  
43 to respond to a request for access to a government record within  
44 seven business days or as soon as possible thereafter.

45 j. A custodian shall post prominently in public view in the part  
46 or parts of the office or offices of the custodian that are open to or  
47 frequented by the public a statement that sets forth in clear, concise  
48 and specific terms the right to appeal a denial of, or failure to

1 provide, access to a government record by any person for  
2 inspection, examination, or copying or for purchase of copies  
3 thereof and the procedure by which an appeal may be filed.

4 k. The files maintained by the Office of the Public Defender  
5 that relate to the handling of any case shall be considered  
6 confidential and shall not be open to inspection by any person  
7 unless authorized by law, court order, or the State Public Defender.

8 l. No requestor shall submit a request for access to a  
9 government record for the purpose of obtaining information for  
10 commercial purposes. No custodian of a government record shall  
11 accept or fulfill such a request.

12 (cf: P.L.2021, c.24, s.2)

13  
14 3. Section 12 of P.L.2001, c.404 (C.47:1A-11) is amended to  
15 read as follows:

16 12. a. A public official, officer, employee or custodian who  
17 knowingly and willfully violates P.L.1963, c.73 (C.47:1A-1 et seq.),  
18 as amended and supplemented, and is found to have unreasonably  
19 denied access under the totality of the circumstances, shall be  
20 subject to a civil penalty of \$1,000 for an initial violation, \$2,500  
21 for a second violation that occurs within 10 years of an initial  
22 violation, and \$5,000 for a third violation that occurs within 10  
23 years of an initial violation.

24 A requestor who is found to have intentionally failed to certify  
25 that a records request is for commercial purposes shall be subject to  
26 a civil penalty of \$500 for the first offense, \$1,000 for the second  
27 offense, and \$2,000 for each subsequent offense. Penalties may be  
28 imposed by the courts or the Government Records Council.

29 **【This penalty】** These penalties shall be collected and enforced in  
30 proceedings in accordance with the "Penalty Enforcement Law of  
31 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court  
32 governing actions for the collection of civil penalties. The Superior  
33 Court shall have jurisdiction of proceedings for the collection and  
34 enforcement of the penalty imposed by this section.

35 Appropriate disciplinary proceedings may be initiated against a  
36 public official, officer, employee or custodian against whom a  
37 penalty has been imposed.

38 (cf: P.L.2001, c.404, s.12)

39  
40 4. This act shall take effect immediately.

41  
42  
43 STATEMENT

44  
45 This bill prohibits requests for access to government records for  
46 commercial purposes. The bill also requires a requestor to certify

1 that the information requested will not be used for a commercial  
2 purpose, and a requestor who is found to have intentionally failed to  
3 certify that a records request is for commercial purposes will be  
4 subject to a fine of \$500 for the first offense, \$1,000 for the second  
5 offense, and \$2,000 for each subsequent offense.