

[Third Reprint]

SENATE, No. 3125

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED OCTOBER 3, 2022

Sponsored by:

Senator JOSEPH P. CRYAN

District 20 (Union)

Senator VIN GOPAL

District 11 (Monmouth)

Co-Sponsored by:

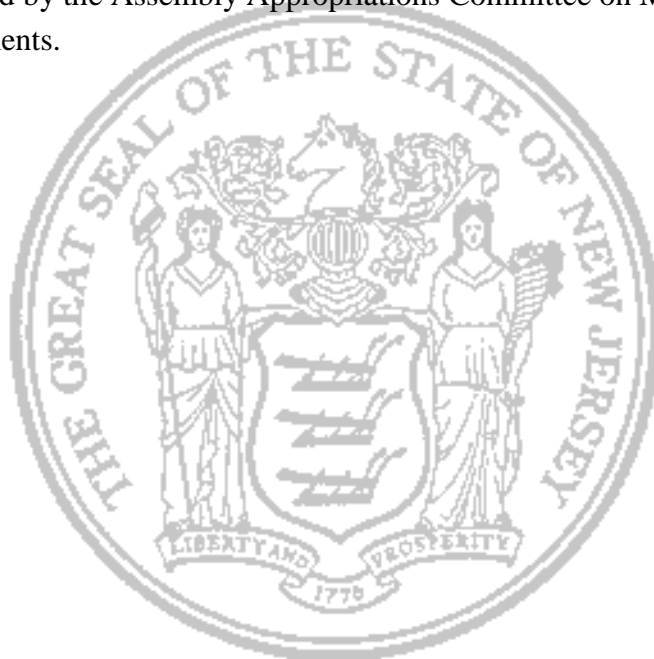
Senators Diegnan, Codey, Durr and Greenstein

SYNOPSIS

Expands “Daniel’s Law” to prohibit disclosure of personal information concerning child protective investigators.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on March 23, 2023, with amendments.



(Sponsorship Updated As Of: 2/2/2023)

1 AN ACT prohibiting disclosure of personal information with respect
2 to child protective investigators and amending various parts of
3 the statutory law.

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

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

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

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

17 ¹"Child protective investigator in the Division of Child
18 Protection and Permanency" means an employee of the Division of
19 Child Protection and Permanency in the Department of Children
20 and Families whose primary duty is to investigate reports of child
21 abuse and neglect, or ²[a representative of the Office of the Public
22 Defender acting as the division's agent] any other employee of the
23 Department of Children and Families whose duties include
24 investigation, response to, or review of allegations of child abuse
25 and neglect².

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

28 "Criminal investigatory record" means a record which is not
29 required by law to be made, maintained or kept on file that is held
30 by a law enforcement agency which pertains to any criminal
31 investigation or related civil enforcement proceeding.¹

32 "Custodian of a government record" or "custodian" means in the
33 case of a municipality, the municipal clerk and in the case of any
34 other public agency, the officer officially designated by formal
35 action of that agency's director or governing body, as the case may
36 be.

37 "Government record" or "record" means any paper, written or
38 printed book, document, drawing, map, plan, photograph,
39 microfilm, data processed or image processed document,
40 information stored or maintained electronically or by sound-
41 recording or in a similar device, or any copy thereof, that has been
42 made, maintained or kept on file in the course of his or its official
43 business by any officer, commission, agency or authority of the

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 SHH committee amendments adopted December 15, 2022.

²Assembly AAP committee amendments adopted February 23, 2023.

³Assembly AAP committee amendments adopted March 23, 2023.

1 State or of any political subdivision thereof, including subordinate
2 boards thereof, or that has been received in the course of his or its
3 official business by any such officer, commission, agency, or
4 authority of the State or of any political subdivision thereof,
5 including subordinate boards thereof. The terms shall not include
6 inter-agency or intra-agency advisory, consultative, or deliberative
7 material.

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

11 information received by a member of the Legislature from a
12 constituent or information held by a member of the Legislature
13 concerning a constituent, including, but not limited to, information
14 in written form or contained in any e-mail or computer data base, or
15 in any telephone record whatsoever, unless it is information the
16 constituent is required by law to transmit;

17 any memorandum, correspondence, notes, report or other
18 communication prepared by, or for, the specific use of a member of
19 the Legislature in the course of the member's official duties, except
20 that this provision shall not apply to an otherwise publicly-
21 accessible report which is required by law to be submitted to the
22 Legislature or its members;

23 any copy, reproduction or facsimile of any photograph, negative
24 or print, including instant photographs and videotapes of the body,
25 or any portion of the body, of a deceased person, taken by or for the
26 medical examiner at the scene of death or in the course of a post
27 mortem examination or autopsy made by or caused to be made by
28 the medical examiner except:

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

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

36 for use in the field of forensic pathology or for use in medical or
37 scientific education or research, or

38 for use by any law enforcement agency in this State or any other
39 state or federal law enforcement agency;

40 criminal investigatory records;

41 the portion of any criminal record concerning a person's
42 detection, apprehension, arrest, detention, trial or disposition for
43 unlawful manufacturing, distributing, or dispensing, or possessing
44 or having under control with intent to manufacture, distribute, or
45 dispense, marijuana or hashish in violation of paragraph (11) of
46 subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or
47 hashish in violation of paragraph (12) of subsection b. of that
48 section, or a violation of either of those paragraphs and a violation

1 of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or
2 subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for
3 distributing, dispensing, or possessing, or having under control with
4 intent to distribute or dispense, on or within 1,000 feet of any
5 school property, or on or within 500 feet of the real property
6 comprising a public housing facility, public park, or public
7 building, or for obtaining, possessing, using, being under the
8 influence of, or failing to make lawful disposition of marijuana or
9 hashish in violation of paragraph (3) or (4) of subsection a., or
10 subsection b., or subsection c. of N.J.S.2C:35-10, or for a violation
11 of any of those provisions and a violation of N.J.S.2C:36-2 for
12 using or possessing with intent to use drug paraphernalia with that
13 marijuana or hashish;

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

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

21 personal firearms records, except for use by any person
22 authorized by law to have access to these records or for use by any
23 government agency, including any court or law enforcement
24 agency, for purposes of the administration of justice;

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

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

37 any record within the attorney-client privilege. This paragraph
38 shall not be construed as exempting from access attorney or
39 consultant bills or invoices except that such bills or invoices may be
40 redacted to remove any information protected by the attorney-client
41 privilege;

42 administrative or technical information regarding computer
43 hardware, software and networks which, if disclosed, would
44 jeopardize computer security;

45 emergency or security information or procedures for any
46 buildings or facility which, if disclosed, would jeopardize security
47 of the building or facility or persons therein;

1 security measures and surveillance techniques which, if
2 disclosed, would create a risk to the safety of persons, property,
3 electronic data or software;
4 information which, if disclosed, would give an advantage to
5 competitors or bidders;
6 information generated by or on behalf of public employers or
7 public employees in connection with any sexual harassment
8 complaint filed with a public employer or with any grievance filed
9 by or against an individual or in connection with collective
10 negotiations, including documents and statements of strategy or
11 negotiating position;
12 information which is a communication between a public agency
13 and its insurance carrier, administrative service organization or risk
14 management office;
15 information which is to be kept confidential pursuant to court
16 order;
17 any copy of form DD-214, NGB-22, or that form, issued by the
18 United States Government, or any other certificate of honorable
19 discharge, or copy thereof, from active service or the reserves of a
20 branch of the Armed Forces of the United States, or from service in
21 the organized militia of the State, that has been filed by an
22 individual with a public agency, except that a veteran or the
23 veteran's spouse or surviving spouse shall have access to the
24 veteran's own records;
25 any copy of an oath of allegiance, oath of office or any
26 affirmation taken upon assuming the duties of any public office, or
27 that oath or affirmation, taken by a current or former officer or
28 employee in any public office or position in this State or in any
29 county or municipality of this State, including members of the
30 Legislative Branch, Executive Branch, Judicial Branch, and all law
31 enforcement entities, except that the full name, title, and oath date
32 of that person contained therein shall not be deemed confidential;
33 that portion of any document which discloses the social security
34 number, credit card number, unlisted telephone number or driver
35 license number of any person, or, in accordance with section 2 of
36 P.L.2021, c.371 (C.47:1B-2), that portion of any document which
37 discloses the home address, whether a primary or secondary
38 residence, of any active, formerly active, or retired judicial officer,
39 **1[prosecutor,]1 [or] law enforcement officer, 1[or employee of]**
40 **child protective investigator in1 the Division of Child Protection**
41 **and Permanency 1[in the Department of Children and Families] or**
42 **prosecutor1** , or, as defined in section 1 of P.L.2021, c.371
43 (C.47:1B-1), any immediate family member thereof; except for use
44 by any government agency, including any court or law enforcement
45 agency, in carrying out its functions, or any private person or entity
46 acting on behalf thereof, or any private person or entity seeking to
47 enforce payment of court-ordered child support; except with respect
48 to the disclosure of driver information by the New Jersey Motor

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

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 municipality for public safety purposes pursuant to section 1 of
13 P.L.2017, c.266 (C.40:48-2.67); and

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

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

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

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

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

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

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

1 ¹"Judicial officer" means any active, formerly active, or retired
2 federal, state, county, or municipal judge, including a judge of the
3 Tax Court and any other court of limited jurisdiction established,
4 altered, or abolished by law, a judge of the Office of Administrative
5 Law, a judge of the Division of Workers' Compensation, and any
6 other judge established by law who serves in the executive branch.

7 "Law enforcement agency" means a public agency, or part
8 thereof, determined by the Attorney General to have law
9 enforcement responsibilities.

10 "Law enforcement officer" means a person whose public duties
11 include the power to act as an officer for the detection,
12 apprehension, arrest and conviction of offenders against the laws of
13 this State.

14 "Member of the Legislature" means any person elected or
15 selected to serve in the New Jersey Senate or General Assembly.¹

16 "Personal firearms record" means any information contained in a
17 background investigation conducted by the chief of police, the
18 county prosecutor, or the Superintendent of State Police, of any
19 applicant for a permit to purchase a handgun, firearms identification
20 card license, or firearms registration; any application for a permit to
21 purchase a handgun, firearms identification card license, or firearms
22 registration; any document reflecting the issuance or denial of a
23 permit to purchase a handgun, firearms identification card license,
24 or firearms registration; and any permit to purchase a handgun,
25 firearms identification card license, or any firearms license,
26 certification, certificate, form of register, or registration statement.
27 For the purposes of this paragraph, information contained in a
28 background investigation shall include, but not be limited to,
29 identity, name, address, social security number, phone number, fax
30 number, driver's license number, email address, ¹or¹ social media
31 address of any applicant, licensee, registrant or permit holder.

32 "Public agency" or "agency" means any of the principal
33 departments in the Executive Branch of State Government, and any
34 division, board, bureau, office, commission or other instrumentality
35 within or created by such department; the Legislature of the State
36 and any office, board, bureau or commission within or created by
37 the Legislative Branch; and any independent State authority,
38 commission, instrumentality or agency. The terms also mean any
39 political subdivision of the State or combination of political
40 subdivisions, and any division, board, bureau, office, commission or
41 other instrumentality within or created by a political subdivision of
42 the State or combination of political subdivisions, and any
43 independent authority, commission, instrumentality or agency
44 created by a political subdivision or combination of political
45 subdivisions.

46 ¹**["Law enforcement agency" means a public agency, or part**
47 **thereof, determined by the Attorney General to have law**
48 **enforcement responsibilities.**

1 "Law enforcement officer" means a person whose public duties
2 include the power to act as an officer for the detection,
3 apprehension, arrest and conviction of offenders against the laws of
4 this State.

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

7 "Judicial officer" means any active, formerly active, or retired
8 federal, state, county, or municipal judge, including a judge of the
9 Tax Court and any other court of limited jurisdiction established,
10 altered, or abolished by law, a judge of the Office of Administrative
11 Law, a judge of the Division of Workers' Compensation, and any
12 other judge established by law who serves in the executive branch.

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

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

19 "Victim's record" means an individually-identifiable file or
20 document held by a victims' rights agency which pertains directly to
21 a victim of a crime except that a victim of a crime shall have access
22 to the victim's own records.]¹

23 "Victim of a crime" means a person who has suffered personal or
24 psychological injury or death or incurs loss of or injury to personal
25 or real property as a result of a crime, or if such a person is
26 deceased or incapacitated, a member of that person's immediate
27 family.

28 ¹"Victim's record" means an individually-identifiable file or
29 document held by a victims' rights agency which pertains directly to
30 a victim of a crime except that a victim of a crime shall have access
31 to the victim's own records.¹

32 "Victims' rights agency" means a public agency, or part thereof,
33 the primary responsibility of which is providing services, including,
34 but not limited to, food, shelter, or clothing, medical, psychiatric,
35 psychological or legal services or referrals, information and referral
36 services, counseling and support services, or financial services to
37 victims of crimes, including victims of sexual assault, domestic
38 violence, violent crime, child endangerment, child abuse or child
39 neglect, and the Victims of Crime Compensation Board, established
40 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as
41 the Victims of Crime Compensation Office pursuant to P.L.2007,
42 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.

43 ¹["Division" means the Division of Child Protection and
44 Permanency in the Department of Children and Families.

45 "Child protective investigator in the Division of Child Protection
46 and Permanency" means an employee at the division whose primary
47 duty is to investigate reports of child abuse and neglect; the term

1 shall include a representative of the Office of the Public Defender
2 acting as the division's agent.】¹

3 (cf: P.L.2021, c.371, s.10)

4

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

7 6. a. The custodian of a government record shall permit the
8 record to be inspected, examined, and copied by any person during
9 regular business hours; or in the case of a municipality having a
10 population of 5,000 or fewer according to the most recent federal
11 decennial census, a board of education having a total district
12 enrollment of 500 or fewer, or a public authority having less than \$10
13 million in assets, during not less than six regular business hours over
14 not less than three business days per week or the entity's regularly-
15 scheduled business hours, whichever is less; unless a government
16 record is exempt from public access by: P.L.1963, c.73 (C.47:1A-1 et
17 seq.) as amended and supplemented; any other statute; resolution of
18 either or both houses of the Legislature; regulation promulgated under
19 the authority of any statute or Executive Order of the Governor;
20 Executive Order of the Governor; Rules of Court; any federal law;
21 federal regulation; or federal order. Prior to allowing access to any
22 government record, the custodian thereof shall redact from that record
23 any information which discloses the social security number, credit card
24 number, unlisted telephone number, or driver license number of any
25 person, or, in accordance with section 2 of P.L.2021, c.371 (C.47:1B-
26 2), the home address, whether a primary or secondary residence, of
27 any active, formerly active, or retired judicial officer, prosecutor, **[or]**
28 law enforcement officer, or child protective investigator in the
29 Division of Child Protection and Permanency ¹**[in the Department of**
30 **Children and Families.】¹** , or, as defined in section 1 of P.L.2021,
31 c.371 (C.47:1B-1), any immediate family member thereof; except for
32 use by any government agency, including any court or law
33 enforcement agency, in carrying out its functions, or any private
34 person or entity acting on behalf thereof, or any private person or
35 entity seeking to enforce payment of court-ordered child support;
36 except with respect to the disclosure of driver information by the New
37 Jersey Motor Vehicle Commission as permitted by section 2 of
38 P.L.1997, c.188 (C.39:2-3.4); and except that a social security number
39 contained in a record required by law to be made, maintained or kept
40 on file by a public agency shall be disclosed when access to the
41 document or disclosure of that information is not otherwise prohibited
42 by State or federal law, regulation or order or by State statute,
43 resolution of either or both houses of the Legislature, Executive Order
44 of the Governor, rule of court or regulation promulgated under the
45 authority of any statute or executive order of the Governor. Except
46 where an agency can demonstrate an emergent need, a regulation that
47 limits access to government records shall not be retroactive in effect or
48 applied to deny a request for access to a government record that is

1 pending before the agency, the council or a court at the time of the
2 adoption of the regulation.

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

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

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

37 d. A custodian shall permit access to a government record and
38 provide a copy thereof in the medium requested if the public agency
39 maintains the record in that medium. If the public agency does not
40 maintain the record in the medium requested, the custodian shall either
41 convert the record to the medium requested or provide a copy in some
42 other meaningful medium. If a request is for a record: (1) in a
43 medium not routinely used by the agency; (2) not routinely developed
44 or maintained by an agency; or (3) requiring a substantial amount of
45 manipulation or programming of information technology, the agency
46 may charge, in addition to the actual cost of duplication, a special
47 charge that shall be reasonable and shall be based on the cost for any
48 extensive use of information technology, or for the labor cost of

1 personnel providing the service, that is actually incurred by the agency
2 or attributable to the agency for the programming, clerical, and
3 supervisory assistance required, or both.

4 e. Immediate access ordinarily shall be granted to budgets, bills,
5 vouchers, contracts, including collective negotiations agreements and
6 individual employment contracts, and public employee salary and
7 overtime information.

8 f. The custodian of a public agency shall adopt a form for the use
9 of any person who requests access to a government record held or
10 controlled by the public agency. The form shall provide space for the
11 name, address, and phone number of the requestor and a brief
12 description of the government record sought. The form shall include
13 space for the custodian to indicate which record will be made
14 available, when the record will be available, and the fees to be
15 charged. The form shall also include the following: (1) specific
16 directions and procedures for requesting a record; (2) a statement as to
17 whether prepayment of fees or a deposit is required; (3) the time
18 period within which the public agency is required by P.L.1963, c.73
19 (C.47:1A-1 et seq.) as amended and supplemented, to make the record
20 available; (4) a statement of the requestor's right to challenge a
21 decision by the public agency to deny access and the procedure for
22 filing an appeal; (5) space for the custodian to list reasons if a request
23 is denied in whole or in part; (6) space for the requestor to sign and
24 date the form; (7) space for the custodian to sign and date the form if
25 the request is fulfilled or denied. The custodian may require a deposit
26 against costs for reproducing documents sought through an anonymous
27 request whenever the custodian anticipates that the information thus
28 requested will cost in excess of \$5 to reproduce.

29 g. A request for access to a government record shall be in writing
30 and hand-delivered, mailed, transmitted electronically, or otherwise
31 conveyed to the appropriate custodian. A custodian shall promptly
32 comply with a request to inspect, examine, copy, or provide a copy of
33 a government record. If the custodian is unable to comply with a
34 request for access, the custodian shall indicate the specific basis
35 therefor on the request form and promptly return it to the requestor.
36 The custodian shall sign and date the form and provide the requestor
37 with a copy thereof. If the custodian of a government record asserts
38 that part of a particular record is exempt from public access pursuant
39 to P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented,
40 the custodian shall delete or excise from a copy of the record that
41 portion which the custodian asserts is exempt from access and shall
42 promptly permit access to the remainder of the record. If the
43 government record requested is temporarily unavailable because it is
44 in use or in storage, the custodian shall so advise the requestor and
45 shall make arrangements to promptly make available a copy of the
46 record. If a request for access to a government record would
47 substantially disrupt agency operations, the custodian may deny access
48 to the record after attempting to reach a reasonable solution with the

1 requestor that accommodates the interests of the requestor and the
2 agency.

3 h. Any officer or employee of a public agency who receives a
4 request for access to a government record shall forward the request to
5 the custodian of the record or direct the requestor to the custodian of
6 the record.

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

26 (2) During a period declared pursuant to the laws of this State as a
27 state of emergency, public health emergency, or state of local disaster
28 emergency, the deadlines by which to respond to a request for, or grant
29 or deny access to, a government record under paragraph (1) of this
30 subsection or subsection e. of this section shall not apply, provided,
31 however, that the custodian of a government record shall make a
32 reasonable effort, as the circumstances permit, to respond to a request
33 for access to a government record within seven business days or as
34 soon as possible thereafter.

35 j. A custodian shall post prominently in public view in the part or
36 parts of the office or offices of the custodian that are open to or
37 frequented by the public a statement that sets forth in clear, concise
38 and specific terms the right to appeal a denial of, or failure to provide,
39 access to a government record by any person for inspection,
40 examination, or copying or for purchase of copies thereof and the
41 procedure by which an appeal may be filed.

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

46 (cf: P.L.2021, c.371, s.11)

1 3. Section 1 of P.L.2021, c.371 (C.47:1B-1) is amended to read as
2 follows:

3 1. a. As used in this act, P.L.2021, c.371 (C.47:1B-1 et al.):

4 "Authorized person" means a covered person or any of the
5 following persons hereby authorized to submit or revoke a request for
6 the redaction or nondisclosure of a home address on behalf of a
7 covered person:

8 (1) on behalf of any federal judge, a designee of the United States
9 Marshals Service or of the clerk of any United States District Court,
10 provided that the designee submits the affirmation required under
11 subsection d. of section 2 of P.L.2021, c.371 (C.47:1B-2) signed by
12 each federal judge for whom a request or revocation is made;

13 (2) on behalf of any covered person who is deceased or medically
14 or psychologically incapacitated, a person acting on behalf of the
15 covered person as a designated trustee, as an estate executor, or
16 pursuant to a written power of attorney or other legal instrument,
17 provided that the person signs and submits the affirmation required
18 under subsection d. of section 2 of P.L.2021, c.371 (C.47:1B-2) in the
19 stead of the covered person; and

20 (3) on behalf of any immediate family member who is a minor and
21 who is otherwise entitled to address redaction or nondisclosure
22 pursuant to this act, the parent or legal guardian thereof.

23 "Covered person" means an active, formerly active, or retired
24 judicial officer, ¹**or**¹ law enforcement officer, or child protective
25 investigator in the Division of Child Protection and Permanency ¹**in**
26 the Department of Children and Families¹, as those terms are defined
27 by section 1 of P.L.1995, c.23 (C.47:1A-1.1), or prosecutor ¹,¹ and any
28 immediate family member residing in the same household as the
29 judicial officer, law enforcement officer, child protective investigator
30 in the Division of Child Protection and Permanency ¹**in** the
31 Department of Children and Families¹, or prosecutor.

32 "Immediate family member" means a spouse, child, or parent of, or
33 any other family member related by blood or by law to, an active,
34 formerly active, or retired judicial officer, ¹**or**¹ law enforcement
35 officer, or child protective investigator in the Division of Child
36 Protection and Permanency ¹**in** the Department of Children and
37 Families¹, as defined by section 1 of P.L.1995, c.23 (C.47:1A-1.1),
38 or prosecutor ¹,¹ and who resides in the same household as the judicial
39 officer, law enforcement officer, child protective investigator in the
40 Division of Child Protection and Permanency ¹**in** the Department of
41 Children and Families¹, or prosecutor.

42 b. There is established in the Department of Community Affairs
43 an office to be known as the Office of Information Privacy. The office
44 shall be led by a director, who shall be appointed by and serve at the
45 pleasure of the Commissioner of Community Affairs and who may
46 hire staff as necessary.

47 c. The director shall establish:

1 (1) a secure portal through which an authorized person may submit
2 or revoke a request for the redaction or nondisclosure of a covered
3 person's home address from certain records and Internet postings, as
4 provided in section 2 of P.L.2021, c.371 (C.47:1B-2); and such
5 requests shall not be subject to disclosure under P.L.1963, c.73
6 (C.47:1A-1 et seq.);

7 (2) a process by which an authorized person may petition the
8 director for reconsideration of a denial of such request or any
9 revocations thereof;

10 (3) a process by which a person or entity may request receipt of a
11 record that does not contain redactions, or of information that is not
12 disclosable, resulting from subsection a. of section 2 of P.L.2021,
13 c.371 (C.47:1B-2); and

14 (4) a process for the evaluation of any other exceptions to the
15 requirement for redaction or nondisclosure pursuant to section 2 of
16 P.L.2021, c.371 (C.47:1B-2), whether categorical or individualized.
17 The director may grant an exception to any person or entity for the
18 receipt of the unredacted records or information pursuant to this
19 process.

20 d. The director shall evaluate and either approve or deny a request
21 submitted pursuant to subsection c. of this section and any revocations
22 thereof.

23 e. (1) The director may enter into any agreement or contract
24 necessary to effectuate the purposes of this act.

25 (2) The director may issue any guidance, guidelines, decisions, or
26 rules and regulations necessary to effectuate the purposes of this act.
27 The rules and regulations shall be effective immediately upon filing
28 with the Office of Administrative Law for a period not to exceed 18
29 months, and shall, thereafter, be amended, adopted, or readopted in
30 accordance with the provisions of the "Administrative Procedure Act,"
31 P.L.1968, c.410 (C.52:14B-1 et seq.).
32 (cf: P.L.2021, c.371, s.1)

33
34 4. Section 2 of P.L.2021, c.371 (C.47:1B-2) is amended to read as
35 follows:

36 2. a. An authorized person seeking the redaction or nondisclosure
37 of the home address of any covered person from certain records and
38 Internet postings consistent with section 2 of P.L.2015, c.226 (C.47:1-
39 17), section 1 of P.L.1995, c.23 (C.47:1A-1.1), or section 6 of
40 P.L.2001, c.404 (C.47:1A-5) shall submit a request in accordance with
41 section 1 of P.L.2021, c.371 (C.47:1B-1) to the Office of Information
42 Privacy through the secure portal established by the office. The
43 address shall only be subject to redaction or nondisclosure if a request
44 is submitted to and approved by the Director of the Office of
45 Information Privacy.

46 b. A public agency shall redact or cease to disclose, in accordance
47 with section 6 of P.L.2001, c.404 (C.47:1A-5) and section 1 of
48 P.L.1995, c.23 (C.47:1A-1.1), respectively, the home address of a

1 covered person approved by the Office of Information Privacy not
2 later than 30 days following the approval. A public agency shall also
3 discontinue the redaction or nondisclosure of the home address of any
4 covered person for whom a revocation request has been approved not
5 later than 30 days following the approval.

6 c. An immediate family member who has sought and received
7 approval under subsection a. of this section and who no longer resides
8 with the active, formerly active, or retired judicial officer,
9 1[prosecutor,]1 [or] law enforcement officer, 1[or]1 child protective
10 investigator in the Division of Child Protection and Permanency 1[in
11 the Department of Children and Families]1 , or prosecutor1 , shall
12 submit through the portal a revocation request not later than 30 days
13 from the date on which the immediate family member no longer
14 resided with the judicial officer, 1[prosecutor, or]1 law enforcement
15 officer 1, child protective investigator in the Division of Child
16 Protection and Permanency, or prosecutor1 .

17 d. A person submitting a request pursuant to subsection a. of this
18 section shall affirm in writing that the person understands that certain
19 rights, duties, and obligations are affected as a result of the request,
20 including:

21 (1) the receipt of certain notices from non-governmental entities as
22 would otherwise be required pursuant to the "Municipal Land Use
23 Law," P.L.1975, c.291 (C.40:55D-1 et seq.);

24 (2) the signing of petitions related to the nomination or election of
25 a candidate to public office or related to any public question;

26 (3) the eligibility or requirements related to seeking or accepting
27 the nomination for election or election to public office, or the
28 appointment to any public position;

29 (4) the sale or purchase of a home or other property, recordation of
30 a judgment, lien or other encumbrance on real or other property, and
31 any relief granted based thereon;

32 (5) the ability to be notified of any class action suit or settlement;
33 and

34 (6) any other legal, promotional, or official notice which would
35 otherwise be provided to the person but for the redaction or
36 nondisclosure of such person's home address pursuant to subsection a.
37 of this section.

38 (cf: P.L.2021, c.371, s.2)

39
40 5. Section 1 of P.L.2015, c.226 (C.2C:20-31.1) is amended to
41 read as follows:

42 1. a. For the purposes of this section:

43 "Authorized person" means a covered person or any of the
44 following persons hereby authorized to submit or revoke a request for
45 the redaction or nondisclosure of a home address or unpublished
46 telephone number on behalf of a covered person pursuant to subsection
47 c. of this section:

1 (1) on behalf of any federal judge, a designee of the United States
2 Marshals Service or of the clerk of any United States District Court;

3 (2) on behalf of any covered person who is deceased or medically
4 or psychologically incapacitated, a person acting on behalf of the
5 covered person as a designated trustee, as an estate executor, or
6 pursuant to a written power of attorney or other legal instrument; and

7 (3) on behalf of any immediate family member who is a minor and
8 who is otherwise entitled to address redaction or nondisclosure
9 pursuant to this act, P.L.2021, c.371 (C.47:1B-1 et al.), the parent or
10 legal guardian thereof.

11 "Covered person" means an active, formerly active, or retired
12 judicial officer, ¹**[or]**¹ law enforcement officer, or child protective
13 investigator in the Division of Child Protection and Permanency ¹**[in**
14 **the Department of Children and Families]**¹, as those terms are defined
15 by section 1 of P.L.1995, c.23 (C.47:1A-1.1), or prosecutor and any
16 immediate family member residing in the same household as the
17 judicial officer, law enforcement officer, child protective investigator
18 in the Division of Child Protection and Permanency ¹**[in the**
19 **Department of Children and Families]**¹, or prosecutor.

20 ¹"Home telephone number" means any telephone number used
21 primarily for personal communications, including a landline or cellular
22 telephone number.¹

23 "Immediate family member" means a spouse, child, or parent of, or
24 any other family member related by blood or by law to, an active,
25 formerly active, or retired judicial officer, ¹**[or]**¹ law enforcement
26 officer, or child protective investigator in the Division of Child
27 Protection and Permanency ¹**[in the Department of Children and**
28 **Families]**¹, as those terms are defined by section 1 of P.L.1995, c.23
29 (C.47:1A-1.1), or prosecutor ¹,¹ and who resides in the same
30 household as the judicial officer, law enforcement officer, child
31 protective investigator in the Division of Child Protection and
32 Permanency ¹**[in the Department of Children and Families]**¹, or
33 prosecutor.

34 ¹"News media" means newspapers, magazines, press associations,
35 news agencies, wire services, or other similar printed means of
36 disseminating news to the general public.¹

37 "Person" shall not be construed to include in any capacity the
38 custodian of a government record as defined in section 1 of P.L.1995,
39 c.23 (C.47:1A-1.1).

40 b. Upon notification pursuant to subsection c. of this section, and
41 not later than 10 business days after receipt thereof, a person shall not
42 knowingly, with purpose to expose another to harassment or risk of
43 harm to life or property, or in reckless disregard of the probability of
44 such exposure, post, repost, publish, or republish on the Internet, or
45 otherwise make available, the home address or unpublished home
46 telephone number of any covered person, except in compliance with

1 any court order, law enforcement investigation, or request by a
2 government agency or person duly acting on behalf of the agency.

3 c. An authorized person, as defined in subsection a. of this
4 section, seeking to prohibit the disclosure of the home address or
5 unpublished home telephone number of any covered person consistent
6 with subsection b. of this section shall provide written notice to the
7 person from whom ¹【they are】 the authorized person is¹ seeking
8 nondisclosure that ¹【they are】 the authorized person is¹ an authorized
9 person and requesting that such person cease the disclosure of such
10 information and remove the protected information from the Internet or
11 where otherwise made available.

12 d. A reckless violation of subsection b. of this section is a crime
13 of the fourth degree. A purposeful violation of subsection b. of this
14 section is a crime of the third degree.

15 e. This section shall not be construed to prohibit a person,
16 business, or association ¹【who】 that¹ has received information as
17 unredacted pursuant to the provisions of sections 1 through 3 of
18 P.L.2021, c.371 (C.47:1B-1 through C.47:1B-3) from making the
19 information available consistent with the purposes for which the
20 person, business, or association received the information. A person,
21 business, or association that uses or makes available the information in
22 a way that is inconsistent with the purposes for which the person,
23 business, or association received the information shall be liable as
24 provided pursuant to subsection d. of this section.

25 f. Nothing herein shall be construed to impose liability on the
26 news media for failure to remove information from previously printed
27 newspapers ¹【. As used in this subsection, "news media" means
28 newspapers, magazines, press associations, news agencies, wire
29 services, or other similar printed means of disseminating news to the
30 general public】 , and nothing herein shall be construed to impose
31 liability relating to telephone directories or directory assistance unless
32 the covered person has requested to be unpublished in the directory
33 and directory assistance by the applicable publication deadline¹ .

34 (cf: P.L.2021, c.371, s.5)

35

36 6. Section 3 of P.L.2015, c.226 (C.56:8-166.1) is amended to read
37 as follows:

38 3. a. (1) Upon notification pursuant to paragraph (2) of this
39 subsection, and not later than 10 business days following receipt
40 thereof, a person, business, or association shall not disclose or re-
41 disclose on the Internet or otherwise make available, the home address
42 or unpublished home telephone number of any covered person, as
43 defined in subsection d. of this section ³【, who has received approval
44 from the Office of Information Privacy for the redaction or
45 nondisclosure of the covered person's address】³.

46 (2) An authorized person seeking to prohibit the disclosure of the
47 home address or unpublished home telephone number of any covered
48 person consistent with paragraph (1) of this subsection shall provide

1 written notice to the person from whom ¹~~they are~~ the authorized
2 person is¹ seeking nondisclosure that ¹~~they are~~ the authorized
3 person is¹ an authorized person and requesting that the person cease
4 the disclosure of the information and remove the protected information
5 from the Internet or where otherwise made available.

6 (3) An immediate family member who has provided notice
7 pursuant to paragraph (2) of this subsection and who no longer resides
8 with the judicial officer, ¹~~prosecutor,~~¹ ¹~~or~~¹ law enforcement
9 officer, ¹~~or~~¹ child protective investigator in the Division of Child
10 Protection and Permanency ¹~~in the Department of Children and~~
11 Families ¹, or prosecutor¹ shall provide notice to that effect to the
12 person, business, or association not later than 30 days from the date on
13 which the immediate family member no longer resided with the
14 judicial officer, ¹~~prosecutor, child protective investigator in the~~
15 Division of Child Protection and Permanency in the Department of
16 Children and Families, or¹ law enforcement officer ¹, child protective
17 investigator in the Division of Child Protection and Permanency, or
18 prosecutor¹ .

19 b. A person, business, or association that violates subsection a. of
20 this section shall be liable to the ¹~~aggrieved~~ covered¹ person ¹or the
21 covered person's assignee¹ , who may bring a civil action in the
22 Superior Court. ³The covered person, or the covered person's
23 assignee as defined in this section, may bring such a civil action
24 commencing on the date of enactment of P.L. _____, c. _____ (pending
25 before the Legislature as this bill).³

26 c. The court ¹~~may~~ shall¹ award:

27 (1) actual damages, but not less than liquidated damages computed
28 at the rate of \$1,000 for each violation of this act;

29 (2) punitive damages upon proof of willful or reckless disregard of
30 the law;

31 (3) reasonable attorney's fees and other litigation costs reasonably
32 incurred; and

33 (4) any other preliminary and equitable relief as the court
34 determines to be appropriate.

35 d. For the purposes of this section:

36 ¹"Assignee" means a person or entity to whom or which an
37 authorized person has assigned, in writing, a covered person's right to
38 bring a civil action for a violation of subsection a. of this section.¹

39 "Authorized person" means a covered person or any of the
40 following persons hereby authorized to submit or revoke a request for
41 the redaction or nondisclosure of a home address on behalf of a
42 covered person:

43 (1) on behalf of any federal judge, a designee of the United States
44 Marshals Service or of the clerk of any United States District Court;

45 (2) on behalf of any covered person who is deceased or medically
46 or psychologically incapacitated, a person acting on behalf of the

1 covered person as a designated trustee, as an estate executor, or
2 pursuant to a written power of attorney or other legal instrument; and

3 (3) on behalf of any immediate family member who is a minor and
4 who is otherwise entitled to address redaction or nondisclosure
5 pursuant to this act, the parent or legal guardian thereof.

6 "Covered person" means an active, formerly active, or retired
7 judicial officer, ¹**[or]**¹ law enforcement officer, or child protective
8 investigator in the Division of Child Protection and Permanency ¹**[in**
9 **the Department of Children and Families]** ¹, as those terms are defined
10 by section 1 of P.L.1995, c.23 (C.47:1A-1.1), or prosecutor ¹, ¹ and any
11 immediate family member residing in the same household as such
12 judicial officer, law enforcement officer, child protective investigator
13 in the Division of Child Protection and Permanency ¹**[in the**
14 **Department of Children and Families]** ¹, or prosecutor.

15 "Disclose" shall mean to solicit, sell, manufacture, give, provide,
16 lend, trade, mail, deliver, transfer, post, publish, distribute, circulate,
17 disseminate, present, exhibit, advertise or offer ¹, and shall include
18 making available or viewable within a searchable list or database,
19 regardless of whether a search of such list or database is actually
20 performed.

21 "Home telephone number" means any telephone number used
22 primarily for personal communications, including a landline or cellular
23 telephone number¹ .

24 "Immediate family member" means a spouse, child, or parent of, or
25 any other family member related by blood or by law to, an active,
26 formerly active, or retired judicial officer, ¹**[or]**¹ law enforcement
27 officer, or child protective investigator in the Division of Child
28 Protection and Permanency ¹**[in the Department of Children and**
29 **Families]** ¹, as those terms are defined by section 1 of P.L.1995, c.23
30 (C.47:1A-1.1), or prosecutor ¹, ¹ and who resides in the same
31 household as such judicial officer, ¹**[prosecutor, child protective**
32 **investigator in the Division of Child Protection and Permanency in the**
33 **Department of Children and Families, or]** ¹ law enforcement officer ¹,
34 child protective investigator in the Division of Child Protection and
35 Permanency, or prosecutor¹ .

36 ¹"News media" means newspapers, magazines, press associations,
37 news agencies, wire services, or other similar printed means of
38 disseminating news to the general public.¹

39 "Person" shall not be construed to include in any capacity the
40 custodian of a government record as defined in section 1 of P.L.1995,
41 c.23 (C.47:1A-1.1).

42 e. This section shall not be construed to prohibit a person,
43 business, or association ¹**[who]** that¹ has received information as
44 unredacted pursuant to the provisions of sections 1 through 3 of
45 P.L.2021, c.371 (C.47:1B-1 through C.47:1B-3) from making the
46 information available consistent with the purposes for which the
47 person, business, or association received the information. A person,

1 business, or association that uses or makes available the information in
2 a way that is inconsistent with the purposes for which the person,
3 business, or association received the information shall be liable as
4 provided pursuant to subsection c. of this section.

5 f. Nothing herein shall be construed to impose liability on the
6 news media for failure to remove information from previously printed
7 newspapers ¹【. As used in this subsection, "news media" means
8 newspapers, magazines, press associations, news agencies, wire
9 services, or other similar printed means of disseminating news to the
10 general public】 , and nothing herein shall be construed to impose
11 liability relating to telephone directories or directory assistance unless
12 the covered person has requested to be unpublished in the directory
13 and directory assistance by the applicable publication deadline¹ .
14 (cf: P.L.2021, c.371, s.8)

15
16 7. Section 8 of P.L.2020, c.125 (C.56:8-166.3) is amended to read
17 as follows:

18 8. This act shall be liberally construed in order to accomplish its
19 purpose and the public policy of this State, which is to enhance the
20 safety and security of certain public officials in the justice system,
21 including judicial officers, ¹【prosecutors,】¹ ¹【and】¹ law enforcement
22 officers, ¹【and】¹ child protective ¹【investigator】 investigators¹ in the
23 Division of Child Protection and Permanency ¹【in the Department of
24 Children and Families】 , and prosecutors¹ , who served or have served
25 the people of New Jersey, and the immediate family members of these
26 individuals, to foster the ability of these public servants who perform
27 critical roles in the justice system to carry out their official duties
28 without fear of personal reprisal from affected individuals related to
29 the performance of their public functions. ¹For the purposes of this
30 section, "child protective investigator in the Division of Child
31 Protection and Permanency" has the same meaning as is provided in
32 section 1 of P.L.1995, c.23 (C.47:1A-1.1).¹
33 (cf: P.L.2020, c.125, s.8)

34
35 8. ³【This】 Except as otherwise specified, this³ act shall take
36 effect ²【immediately】 on the first day of the 13th month following the
37 date of enactment, except that the Department of Community Affairs
38 may take any anticipatory administrative action as shall be necessary
39 for the implementation of this act².