

2012 -- S 2229

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO PUBLIC RECORDS - ACCESS TO PUBLIC RECORDS

Introduced By: Senators DeVall, Crowley, and Perry

Date Introduced: January 24, 2012

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 38-2-2 of the General Laws in Chapter 38-2 entitled "Access to
2 Public Records" is hereby amended to read as follows:

3 **38-2-2. Definitions.** -- As used in this chapter:

4 (1) "Agency" or "public body" shall mean any executive, legislative, judicial, regulatory,
5 or administrative body of the state, or any political subdivision thereof; including, but not limited
6 to, any department, division, agency, commission, board, office, bureau, authority, any school,
7 fire, or water district, or other agency of Rhode Island state or local government which exercises
8 governmental functions, any authority as defined in section 42-35-1(b), or any other public or
9 private agency, person, partnership, corporation, or business entity acting on behalf of and/or in
10 place of any public agency.

11 (2) "Chief administrative officer" means the highest authority of the public body as
12 defined in subsection (a) of this section.

13 (3) "Prevailing plaintiff" means and shall include those persons and entities deemed
14 prevailing parties pursuant to 42 U.S.C. section 1988.

15 (4) "Public business" means any matter over which the public body has supervision,
16 control, jurisdiction, or advisory power.

17 (5) (i) "Public record" or "public records" shall mean all documents, papers, letters,
18 maps, books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data
19 processing records, computer stored data (including electronic mail messages, except specifically

1 for any electronic mail messages of or to elected officials with or relating to those they represent
2 and correspondence of or to elected officials in their official capacities) or other material
3 regardless of physical form or characteristics made or received pursuant to law or ordinance or in
4 connection with the transaction of official business by any agency. For the purposes of this
5 chapter, the following records shall not be deemed public:

6 (A) (I) All records which are identifiable to an individual applicant for benefits, client,
7 patient, student, or employee, including, but not limited to, personnel, medical treatment, welfare,
8 employment security, pupil records, all records relating to a client/attorney relationship and to a
9 doctor/patient relationship, and all personal or medical information relating to an individual in
10 any files, including information relating to medical or psychological facts, personal finances,
11 welfare, employment security, student performance, or information in personnel files maintained
12 to hire, evaluate, promote, or discipline any employee of a public body; provided, however, with
13 respect to employees, the name, gross salary, salary range, total cost of paid fringe benefits, gross
14 amount received in overtime, and other remuneration in addition to salary, job title, job
15 description, dates of employment and positions held with the state or municipality, work location,
16 business telephone number, the city or town of residence, and date of termination shall be public.

17 (II) Notwithstanding the provisions of this section, or any other provision of the general
18 laws to the contrary, the pension records of all persons who are either current or retired members
19 of the retirement systems established by the general laws as well as all persons who become
20 members of those retirement systems after June 17, 1991 shall be open for public inspection.
21 "Pension records" as used in this section shall include all records containing information
22 concerning pension and retirement benefits of current and retired members of the retirement
23 systems established in title 8, title 36, title 42, and title 45 and future members of said systems,
24 including all records concerning retirement credits purchased and the ability of any member of
25 the retirement system to purchase retirement credits, but excluding all information regarding the
26 medical condition of any person and all information identifying the member's designated
27 beneficiary or beneficiaries.

28 (B) Trade secrets and commercial or financial information obtained from a person, firm,
29 or corporation which is of a privileged or confidential nature.

30 (C) Child custody and adoption records, records of illegitimate births, and records of
31 juvenile proceedings before the family court.

32 (D) All records maintained by law enforcement agencies for criminal law enforcement
33 and all records relating to the detection and investigation of crime, including those maintained on
34 any individual or compiled in the course of a criminal investigation by any law enforcement

1 agency. Provided, however, such records shall not be deemed public only to the extent that the
2 disclosure of the records or information (a) could reasonably be expected to interfere with
3 investigations of criminal activity or with enforcement proceedings, (b) would deprive a person of
4 a right to a fair trial or an impartial adjudication, (c) could reasonably be expected to constitute an
5 unwarranted invasion of personal privacy, (d) could reasonably be expected to disclose the
6 identity of a confidential source, including a state, local, or foreign agency or authority, or any
7 private institution which furnished information on a confidential basis, or the information
8 furnished by a confidential source, (e) would disclose techniques and procedures for law
9 enforcement investigations or prosecutions, or would disclose guidelines for law enforcement
10 investigations or prosecutions or (f) could reasonably be expected to endanger the life or physical
11 safety of any individual. Records relating to management and direction of a law enforcement
12 agency and records or reports reflecting the initial arrest of an adult and the charge or charges
13 brought against an adult shall be public, and including, but not limited to, the above, all
14 provisions of individual employment contracts shall be public except for personally identifiable
15 information including social security numbers, home addresses and non-business telephone
16 numbers.

17 (E) Any records which would not be available by law or rule of court to an opposing
18 party in litigation.

19 (F) Scientific and technological secrets and the security plans of military and law
20 enforcement agencies, the disclosure of which would endanger the public welfare and security.

21 (G) Any records which disclose the identity of the contributor of a bona fide and lawful
22 charitable contribution to the public body whenever public anonymity has been requested of the
23 public body with respect to the contribution by the contributor.

24 (H) Reports and statements of strategy or negotiation involving labor negotiations or
25 collective bargaining.

26 (I) Reports and statements of strategy or negotiation with respect to the investment or
27 borrowing of public funds, until such time as those transactions are entered into.

28 (J) Any minutes of a meeting of a public body which are not required to be disclosed
29 pursuant to chapter 46 of title 42.

30 (K) Preliminary drafts, notes, impressions, memoranda, working papers, and work
31 products; provided, however, any documents submitted at a public meeting of a public body shall
32 be deemed public.

33 (L) Test questions, scoring keys, and other examination data used to administer a
34 licensing examination, examination for employment or promotion, or academic examinations;

1 provided, however, that a person shall have the right to review the results of his or her
2 examination.

3 (M) Correspondence of or to elected officials with or relating to those they represent and
4 correspondence of or to elected officials in their official capacities.

5 (N) The contents of real estate appraisals, engineering, or feasibility estimates and
6 evaluations made for or by an agency relative to the acquisition of property or to prospective
7 public supply and construction contracts, until such time as all of the property has been acquired
8 or all proceedings or transactions have been terminated or abandoned; provided the law of
9 eminent domain shall not be affected by this provision.

10 (O) All tax returns.

11 (P) All investigatory records of public bodies, with the exception of law enforcement
12 agencies, pertaining to possible violations of statute, rule, or regulation other than records of final
13 actions taken provided that all records prior to formal notification of violations or noncompliance
14 shall not be deemed to be public.

15 (Q) Records of individual test scores on professional certification and licensing
16 examinations; provided, however, that a person shall have the right to review the results of his or
17 her examination.

18 (R) Requests for advisory opinions until such time as the public body issues its opinion.

19 (S) Records, reports, opinions, information, and statements required to be kept
20 confidential by federal law or regulation or state law, or rule of court.

21 (T) Judicial bodies are included in the definition only in respect to their administrative
22 function provided that records kept pursuant to the provisions of chapter 16 of title 8 are exempt
23 from the operation of this chapter.

24 (U) Library records which by themselves or when examined with other public records,
25 would reveal the identity of the library user requesting, checking out, or using any library
26 materials.

27 (V) Printouts from TELE -- TEXT devices used by people who are deaf or hard of
28 hearing or speech impaired.

29 (W) All records received by the insurance division of the department of business
30 regulation from other states, either directly or through the National Association of Insurance
31 Commissioners, if those records are accorded confidential treatment in that state. Nothing
32 contained in this title or any other provision of law shall prevent or be construed as prohibiting
33 the commissioner of insurance from disclosing otherwise confidential information to the
34 insurance department of this or any other state or country, at any time, so long as the agency or

1 office receiving the records agrees in writing to hold it confidential in a manner consistent with
2 the laws of this state.

3 (X) Credit card account numbers in the possession of state or local government are
4 confidential and shall not be deemed public records.

5 (Y) Any documentary material, answers to written interrogatories, or oral testimony
6 provided under any subpoena issued under Rhode Island general law section 9-1.1-6.

7 (ii) However, any reasonably segregable portion of a public record excluded by this
8 section shall be available for public inspections after the deletion of the information which is the
9 basis of the exclusion, if disclosure of the segregable portion does not violate the intent of this
10 section.

11 (6) "Supervisor of the regulatory body" means the chief or head of a section having
12 enforcement responsibility for a particular statute or set of rules and regulations within a
13 regulatory agency.

14 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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- 1 This act would require individual employment contracts of public employees to be made
- 2 part of the public record; provided, however, that certain personal information is excluded.
- 3 This act would take effect upon passage.

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