

2018 -- S 2308

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LC004429
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO PUBLIC RECORDS - ACCESS TO PUBLIC RECORDS

Introduced By: Senator Roger Picard

Date Introduced: February 01, 2018

Referred To: Senate Judiciary

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.**

4 As used in this chapter:

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

12 (2) "Chief administrative officer" means the highest authority of the public body.

13 (3) "Public business" means any matter over which the public body has supervision,
14 control, jurisdiction, or advisory power.

15 (4) "Public record" or "public records" shall mean all documents, papers, letters, maps,
16 books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data
17 processing records, computer stored data (including electronic mail messages, except specifically
18 for any electronic mail messages of or to elected officials with or relating to those they represent
19 and correspondence of or to elected officials in their official capacities), or other material

1 regardless of physical form or characteristics made or received pursuant to law or ordinance or in
2 connection with the transaction of official business by any agency. For the purposes of this
3 chapter, the following records shall not be deemed public:

4 (A) (I) (a) All records relating to a client/attorney relationship and to a doctor/patient
5 relationship, including all medical information relating to an individual in any files.

6 (b) Personnel and other personal individually identifiable records otherwise deemed
7 confidential by federal or state law or regulation, or the disclosure of which would constitute a
8 clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. § 552 et seq.; provided,
9 however, with respect to employees, and employees of contractors and subcontractors working on
10 public works projects that are required to be listed as certified payrolls, the name, gross salary,
11 salary range, total cost of paid fringe benefits, gross amount received in overtime, and any other
12 remuneration in addition to salary, job title, job description, dates of employment and positions
13 held with the state, municipality, employment contract, or public works contractor or
14 subcontractor on public works projects work location, and/or project, business telephone number,
15 the city or town of residence, and date of termination shall be public. For the purposes of this
16 section "remuneration" shall include any payments received by an employee as a result of
17 termination, or otherwise leaving employment, including, but not limited to, payments for
18 accrued sick and/or vacation time, severance pay, or compensation paid pursuant to a contract
19 buy-out provision.

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

32 (B) Trade secrets and commercial or financial information obtained from a person, firm,
33 or corporation that is of a privileged or confidential nature.

34 (C) Child custody and adoption records, records of illegitimate births, and records of

1 juvenile proceedings before the family court.

2 (D) All records maintained by law enforcement agencies for criminal law enforcement
3 and all records relating to the detection and investigation of crime, including those maintained on
4 any individual or compiled in the course of a criminal investigation by any law enforcement
5 agency. Provided, however, such records shall not be deemed public only to the extent that the
6 disclosure of the records or information (a) could reasonably be expected to interfere with
7 investigations of criminal activity or with enforcement proceedings; (b) would deprive a person
8 of a right to a fair trial or an impartial adjudication; (c) could reasonably be expected to constitute
9 an unwarranted invasion of personal privacy; (d) could reasonably be expected to disclose the
10 identity of a confidential source, including a state, local, or foreign agency or authority, or any
11 private institution that furnished information on a confidential basis, or the information furnished
12 by a confidential source; (e) would disclose techniques and procedures for law enforcement
13 investigations or prosecutions, or would disclose guidelines for law enforcement investigations or
14 prosecutions; or (f) could reasonably be expected to endanger the life or physical safety of any
15 individual. Records relating to management and direction of a law enforcement agency and
16 records or reports reflecting the initial arrest of an adult and the charge or charges brought against
17 an adult shall be public.

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

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

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

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

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

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

31 (K) Preliminary drafts, notes, impressions, memoranda, working papers, and work
32 products, including those involving research at state institutions of higher education on
33 commercial, scientific, artistic, technical, or scholarly issues, whether in electronic or other
34 format; provided, however, any documents submitted at a public meeting of a public body shall

1 be deemed public.

2 (L) Test questions, scoring keys, and other examination data used to administer a
3 licensing examination, examination for employment or promotion, or academic examinations;
4 provided, however, that a person shall have the right to review the results of his or her
5 examination.

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

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

13 (O) All tax returns.

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

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

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

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

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

27 (U) Library records that, by themselves or when examined with other public records,
28 would reveal the identity of the library user requesting, checking out, or using any library
29 materials.

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

32 (W) All records received by the insurance division of the department of business
33 regulation from other states, either directly or through the National Association of Insurance
34 Commissioners, if those records are accorded confidential treatment in that state. Nothing

1 contained in this title or any other provision of law shall prevent or be construed as prohibiting
2 the commissioner of insurance from disclosing otherwise confidential information to the
3 insurance department of this or any other state or country, at any time, so long as the agency or
4 office receiving the records agrees in writing to hold it confidential in a manner consistent with
5 the laws of this state.

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

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

10 (Z) Any ~~individually identifiable evaluations~~ evaluations or other personnel records of
11 public school ~~teachers~~ employees made pursuant to state or federal law or regulation.

12 (AA) All documents prepared by school districts intended to be used by school districts
13 in protecting the safety of their students from potential and actual threats.

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 exclude evaluations or other personnel records of public school
- 2 employees from being deemed public records.
- 3 This act would take effect upon passage.

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