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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: Representatives Canario, Vella-Wilkinson, Casey, Edwards, and Lima

Date Introduced: February 14, 2018

Referred To: House 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 of public school teachers made pursuant to  
11 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 [\(BB\) Information held by the Rhode Island lottery division pertaining to the name, home](#)  
15 [address, telephone number, social security number or any other identifying number or](#)  
16 [information of any individual lottery winner from lottery games determined by the director of the](#)  
17 [state lottery to be considered a jackpot.](#)

18 SECTION 2. Section 42-61-4 of the General Laws in Chapter 42-61 entitled "State  
19 Lottery" is hereby amended to read as follows:

20 **42-61-4. Powers and duties of director.**

21 The director shall have the power and it shall be his or her duty to:

22 (1) Supervise and administer the operation of lotteries in accordance with this chapter,  
23 chapter 61.2 of this title and with the rules and regulations of the division;

24 (2) Act as the chief administrative officer having general charge of the office and records  
25 and to employ necessary personnel to serve at his or her pleasure and who shall be in the  
26 unclassified service and whose salaries shall be set by the director of the department of revenue,  
27 pursuant to the provisions of § 42-61-3.

28 (3) In accordance with this chapter and the rules and regulations of the division, license  
29 as agents to sell lottery tickets those persons, as in his or her opinion, who will best serve the  
30 public convenience and promote the sale of tickets or shares. The director may require a bond  
31 from every licensed agent, in an amount provided in the rules and regulations of the division.  
32 Every licensed agent shall prominently display his or her license, or a copy of their license, as  
33 provided in the rules and regulations of the committee;

34 (4) Confer regularly as necessary or desirable, and not less than nine (9) times per year,

1 with the permanent joint committee on state lottery on the operation and administration of the  
2 lotteries; make available for inspection by the committee, upon request, all books, records, files,  
3 and other information, and documents of the division; advise the committee and recommend  
4 those matters that he or she deems necessary and advisable to improve the operation and  
5 administration of the lotteries;

6 (5) Suspend or revoke any license issued pursuant to this chapter, chapter 61.2 of this title  
7 or the rules and regulations promulgated under this chapter and chapter 61.2 of this title;

8 (6) Enter into contracts for the operation of the lotteries, or any part of the operation of  
9 the lotteries, and into contracts for the promotion of the lotteries;

10 (7) Ensure that monthly financial reports are prepared providing gross monthly revenues,  
11 prize disbursements, other expenses, net income, and the amount transferred to the state general  
12 fund for keno and for all other lottery operations; submit this report to the state budget officer, the  
13 auditor general, the permanent joint committee on state lottery, the legislative fiscal advisors, and  
14 the governor no later than the twentieth business day following the close of the month; the  
15 monthly report shall be prepared in a manner prescribed by the members of the revenues  
16 estimating conference; at the end of each fiscal year the director shall submit an annual report  
17 based upon an accrual system of accounting which shall include a full and complete statement of  
18 lottery revenues, prize disbursements and expenses, to the governor and the general assembly,  
19 which report shall be a public document and shall be filed with the secretary of state;

20 (8) Carry on a continuous study and investigation of the state lotteries throughout the  
21 state, and the operation and administration of similar laws, which may be in effect in other states  
22 or countries;

23 (9) Implement the creation and sale of commercial advertising space on lottery tickets as  
24 authorized by § 42-61-4 of this chapter as soon as practicable after June 22, 1994;

25 (10) Promulgate rules and regulations, which shall include, but not be limited to:

26 (i) The price of tickets or shares in the lotteries;

27 (ii) The number and size of the prizes on the winning tickets or shares;

28 (iii) The manner of selecting the winning tickets or shares;

29 (iv) The manner of payment of prizes to the holders of winning tickets or shares;

30 (v) The frequency of the drawings or selections of winning tickets or shares;

31 (vi) The number and types of location at which tickets or shares may be sold;

32 (vii) The method to be used in selling tickets or shares;

33 (viii) The licensing of agents to sell tickets or shares, except that a person under the age  
34 of eighteen (18) shall not be licensed as an agent;

- 1 (ix) The license fee to be charged to agents;
- 2 (x) The manner in which the proceeds of the sale of lottery tickets or shares are  
3 maintained, reported, and otherwise accounted for;
- 4 (xi) The manner and amount of compensation to be paid licensed sales agents necessary  
5 to provide for the adequate availability of tickets or shares to prospective buyers and for the  
6 convenience of the general public;
- 7 (xii) The apportionment of the total annual revenue accruing from the sale of lottery  
8 tickets or shares and from all other sources for the payment of prizes to the holders of winning  
9 tickets or shares, for the payment of costs incurred in the operation and administration of the  
10 lotteries, including the expense of the division and the costs resulting from any contract or  
11 contracts entered into for promotional, advertising, consulting, or operational services or for the  
12 purchase or lease of facilities, lottery equipment, and materials, for the repayment of moneys  
13 appropriated to the lottery fund;
- 14 (xiii) The superior court upon petition of the director after a hearing may issue subpoenas  
15 to compel the attendance of witnesses and the production of documents, papers, books, records,  
16 and other evidence in any matter over which it has jurisdiction, control or supervision. If a person  
17 subpoenaed to attend in the proceeding or hearing fails to obey the command of the subpoena  
18 without reasonable cause, or if a person in attendance in the proceeding or hearing refuses  
19 without lawful cause to be examined or to answer a legal or pertinent question or to exhibit any  
20 book, account, record, or other document when ordered to do so by the court, that person may be  
21 punished for contempt of the court;
- 22 (xiv) The manner, standards, and specification for a process of competitive bidding for  
23 division purchases and contracts; and
- 24 (xv) The sale of commercial advertising space on the reverse side of, or in other available  
25 areas upon, lottery tickets provided that all net revenue derived from the sale of the advertising  
26 space shall be deposited immediately into the state's general fund and shall not be subject to the  
27 provisions of § 42-61-15.

28 [\(11\) Provide for the protection of lottery winners' identifying information as provided in](#)  
29 [§ 38-2-2.](#)

30 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO PUBLIC RECORDS - ACCESS TO PUBLIC RECORDS

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- 1           This act would provide for an exception to the Rhode Island access to public records law
- 2   for certain lottery winners.
- 3           This act would take effect upon passage.

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