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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO PUBLIC RECORDS -- ACCESS TO PUBLIC RECORDS--POLICE
INTERNAL AFFAIRS INVESTIGATIONS

Introduced By: Senators Anderson, Mack, Mendes, Calkin, Bell, and Murray

Date Introduced: March 17, 2022

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 Public
2 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, or
8 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

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

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

7 (b) Personnel and other personal individually identifiable records otherwise deemed
8 confidential by federal or state law or regulation, or the disclosure of which would constitute a
9 clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. § 552 et seq.; provided,
10 however, with respect to employees, and employees of contractors and subcontractors working on
11 public works projects that are required to be listed as certified payrolls, the name, gross salary,
12 salary range, total cost of paid fringe benefits, gross amount received in overtime, and any other
13 remuneration in addition to salary, job title, job description, dates of employment and positions
14 held with the state, municipality, or public works contractor or subcontractor on public works
15 projects, employment contract, work location, and/or project, business telephone number, the city
16 or town of residence, and date of termination shall be public. For the purposes of this section
17 "remuneration" shall include any payments received by an employee as a result of termination, or
18 otherwise leaving employment, including, but not limited to, payments for accrued sick and/or
19 vacation time, severance pay, or compensation paid pursuant to a contract buy-out provision. For
20 purposes of this section, the city or town residence shall not be deemed public for peace officers,
21 as defined in § 12-7-21, and shall not be released.

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

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

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

3 (D) All records maintained by law enforcement agencies for criminal law enforcement and
4 all records relating to the detection and investigation of crime, including those maintained on any
5 individual or compiled in the course of a criminal investigation by any law enforcement agency.
6 Provided, however, such records shall not be deemed public only to the extent that the disclosure
7 of the records or information (a) Could reasonably be expected to interfere with investigations of
8 criminal activity or with enforcement proceedings; (b) Would deprive a person of a right to a fair
9 trial or an impartial adjudication; (c) Could reasonably be expected to constitute an unwarranted
10 invasion of personal privacy; (d) Could reasonably be expected to disclose the identity of a
11 confidential source, including a state, local, or foreign agency or authority, or any private institution
12 that furnished information on a confidential basis, or the information furnished by a confidential
13 source; (e) Would disclose techniques and procedures for law enforcement investigations or
14 prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions; or
15 (f) Could reasonably be expected to endanger the life or physical safety of any individual. Records
16 relating to management and direction of a law enforcement agency and records or reports reflecting
17 the initial arrest of an adult and the charge or charges brought against an adult shall be public.
18 Notwithstanding any other provision of law to the contrary, any reports of investigations conducted
19 by internal affair units or their equivalent, regardless of how or by whom the investigation was
20 initiated, shall be public records; provided, however, names, addresses and other personal
21 identifiers may be redacted from the reports to the extent their disclosure would constitute a clearly
22 unwarranted invasion of personal privacy.

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

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

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

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

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

34 (J) Any minutes of a meeting of a public body that are not required to be disclosed pursuant

1 to chapter 46 of title 42.

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

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

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

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

16 (O) All tax returns.

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

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

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

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

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

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

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

34 (W) All records received by the insurance division of the department of business regulation

1 from other states, either directly or through the National Association of Insurance Commissioners,
2 if those records are accorded confidential treatment in that state. Nothing contained in this title or
3 any other provision of law shall prevent or be construed as prohibiting the commissioner of
4 insurance from disclosing otherwise confidential information to the insurance department of this
5 or any other state or country, at any time, so long as the agency or office receiving the records
6 agrees in writing to hold it confidential in a manner consistent with the laws of this state.

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

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

11 (Z) Any individually identifiable evaluations of public school employees made pursuant to
12 state or federal law or regulation.

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

15 SECTION 2. 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--POLICE
INTERNAL AFFAIRS INVESTIGATIONS

1 This act would classify any reports of investigations conducted by internal affairs units or
2 their equivalent as public records with certain redactions allowed to prevent a clearly unwarranted
3 invasion of personal privacy.

4 This act would take effect upon passage.

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