



2017 OPEN RECORDS LEGISLATIVE UPDATE

OFFICE OF OPEN RECORDS COUNSEL

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Provided below is a summary of new laws passed during the 2017 session of the 110th Tennessee General Assembly impacting the state's public records and open meetings statutes. This summary is provided by the Office of Open Records Counsel as part of the Office's ongoing effort to educate public officials and citizens about Tennessee's open records and open meetings laws.

1. REQUESTS FOR PUBLIC RECORDS

The Tennessee Public Records Act sets forth certain requirements with respect to requesting public records. *See* Tenn. Code Ann. § 10-7-503(a)(7)(A). On July 1, 2017, Public Chapter 233 became law, allowing requests to view public records to be submitted in person or by telephone, fax, mail or email, if a government entity uses such means of communication to transact official business. Requests may also be submitted by internet portal if a governmental entity maintains a public records portal. Previous law did not specify the methods for submitting record requests.

This new law also provides that if a person makes two or more requests to inspect records within a six-month period and that person fails to inspect the records within fifteen (15) business days after the records are made available, the government entity does not have to comply with additional requests from that person for six months following the last failure to inspect. However, the government entity may fulfill future requests from that person if it determines the failure to inspect the records was for good cause. In a similar vein, the new law also provides that a government entity is not required to fulfill record requests from a person that fails to pay for copies of records, so long as the person was provided an estimate of costs for the copies. Tenn. Code Ann. § 10-7-503(a)(7)(A)(vii).

Click [here](#) to view the full language of the new law.

2. ADDRESSES AND “PERSONALLY IDENTIFYING INFORMATION”

The Tennessee Public Records Act currently prohibits public entities from disclosing certain personally identifying information of citizens of the state. Tenn. Code Ann. § 10-7-504(a)(29). “Personally Identifying Information” previously included, among other things, addresses. Tenn. Code Ann. § 10-7-504(a)(29)(C)(vi). On April 7, 2017, Public Chapter 113 became effective and removed the word “addresses” from the definition of personally identifying information. Accordingly, addresses are no longer included in the definition of “Personally Identifying Information” prohibited from disclosure under Tenn. Code Ann. § 10-7-504(a)(29)(C).

Click [here](#) to view the full language of the new law.

3. PERSONAL INFORMATION OF STATE PARK GUESTS

Effective April 12, 2017, Public Chapter 125 makes confidential the name, home or cell phone number, address, social security number, email address, reservation information, transaction information, payment information, driver license information, vehicle registration and emergency contact information of state park guests. Tenn. Code Ann. § 11-1-102(c)(3). However, this information may be accessed by law enforcement, courts or other government agencies performing official functions. Also, this information may be disclosed if a guest expressly authorizes the release of the information.

Click [here](#) to view the full language of the new law.

4. Law Enforcement Worn Body Cameras

Effective May 2, 2017, Public Chapter 255 adds a new subsection to Tenn. Code Ann. § 10-7-504, making law enforcement body camera video confidential if it depicts minors at a school serving grades kindergarten through 12, the interior of a health or mental health facility, or the interior of a private residence that is not being investigated as a crime scene. Tenn. Code Ann. § 10-7-504(u)(1). The law does allow body worn camera video to be released to attorneys involved in criminal proceedings and to law enforcement, courts, and other government agencies performing official functions. Tenn. Code Ann. § 10-7-504(u)(2) & (4).

Click [here](#) to view the full language of the new law.

5. MINOR VICTIMS OF CRIMINAL OFFENSES

Effective July 1, 2017, Public Chapter 308 makes certain information concerning minor victims of criminal offenses confidential. Specifically, the minor's name, home, work and email address, telephone number, social security number, photos or videos, and the relationship status between a defendant and the minor victim shall not be open to public inspection. However, parents or legal guardians of the victim may petition to allow for the release of the minor victim's name and law enforcement may release the minor victim's information for purposes of locating and identifying missing, exploited or abducted minors.

Additionally, the information may be accessed by law enforcement, courts and other government agencies performing official functions.

Click [here](#) to view the full language of the new law.

6. IDENTITY OF VENDORS PROTECTING GOVERNMENT DATA PROCESSING SYSTEMS

Effective April 7, 2017, Public Chapter 114 makes confidential the identity of vendors providing goods and services to the state that are used to protect electronic information processing systems, telecommunication and other communication systems, data storage systems, government employee information, or citizen information. Tenn. Code Ann. § 10-7-504(i)(3)(B). The identity of vendors providing goods and services to entities other than the state, such as counties and municipalities, is not confidential unless the local governing body affirmatively votes to make such information confidential. Tenn. Code Ann. § 10-7-504(i)(3)(C). The identity of vendors made confidential under the new law may still be disclosed to the Comptroller of the Treasury, the Fiscal Review Committee of the General Assembly, and any member of the General Assembly. Tenn. Code Ann. § 10-7-504(i)(3)(D).

Click [here](#) to view the full language of the new law.

7. OFFICER-INVOLVED SHOOTINGS

Effective May 4, 2017, Public Chapter 277, states that investigative records related to deaths resulting from a shooting by a law enforcement officer performing law enforcement duties are public record after completion of the investigation by the Tennessee Bureau of Investigation and after completion of prosecution by the District Attorney General. Under the new law, a District Attorney General may disclose all or part of the investigative record prior to the investigation becoming public record. Tenn. Code Ann. § 38-8-311.

Click [here](#) to view the full language of the new law.

8. TEACHER EVALUATION DATA PROVIDED TO TEACHER TRAINING PROGRAMS

Effective April 17, 2017, under Public Chapter 143, the Department of Education is required to provide all state board of education approved teacher training programs with access to annual evaluation data for teachers and principals graduating from the programs. The data made available to teacher training programs is not public record and may only be used for making improvements to the teacher training programs. Tenn. Code Ann. § 49-5-5632.

Click [here](#) to view the full language of the new law.

9. WINE SHIPMENT REPORTS

Effective July 1, 2018, Public Chapter 486 provides that carriers of wine that contract with direct shippers of wine into the state must file a monthly report with the Department of Revenue containing their name, address and other information pertaining to shipments of wine throughout the state. Pursuant to the new law, the monthly reports received by the Department of Revenue must be made available for public inspection in accordance with the Tennessee Public Records Act. Tenn. Code Ann. § 57-3-217 (h).

Click [here](#) to view the full language of the new law.

10. ECONOMIC DEVELOPMENT CONTRACTS

Effective May 18, 2017, Public Chapter 421 requires that any proposed economic and community development contract negotiated between counties and municipalities is public record as of the date the contract is made available to the members of the respective governing body. This new law also requires governing bodies to publicly disclose such proposed contracts or agreements in a manner that would adequately notify the public of the proposed contract or agreement prior to voting on the proposal. Any capital plans, marketing information or trade secrets, as defined in the new law, remain confidential and are not subject to disclosure under the Public Records Act. Tenn. Code Ann. § 6-54-142.

Click [here](#) to view the full language of the new law.

11. DISCLOSURE OF LAW ENFORCEMENT OFFICER RESIDENTIAL INFORMATION

Effective July 1, 2017, Public Chapter 296 now makes it a criminal offense to improperly disclose the residential information of a law enforcement officer. Tenn. Code Ann. § 10-7-504(f)(8). If the information is negligently released, it is a Class B misdemeanor, which is punishable only as a fine of five hundred dollars. If the information is knowingly released, it is

punishable as a Class A misdemeanor. The provisions criminalizing the disclosure of a law enforcement officer's residential information do not apply if the officer expressly authorized the release of the information, or if the information is released pursuant to a court order.

Click [here](#) to view the full language of the new law.

12. HEALTH PROFESSIONAL LICENSURE EXAM DATA

Effective May 2, 2017, Public Chapter 240 makes examination questions, answer sheets, scoring keys and other examination data used for the licensure, certification or registration of health professionals confidential. Under the new law, the health professionals taking the exam have the right to review their own examinations and the final exam scores shall be open for public inspection. It also makes records related to an investigation of a health care provider confidential until after formal disciplinary charges are filed. Tenn. Code Ann. § 63-1-117(f).

Click [here](#) to view the full language of the new law.

13. APPLICATION MATERIALS FOR DIRECTOR OF STATE MUSEUM

Effective April 19, 2017, Public Chapter 200 makes the application and application materials for the position of museum director of the state museum confidential if those materials could be used to identify a candidate for the position. However, the application materials are only confidential if a candidate for the position expressly requests that his or her information be kept confidential. Application materials of finalists selected for the position by a search committee are not confidential. Tenn. Code Ann. § 4-12-113.

Click [here](#) to view the full language of the new law.

14. EMERGENCY COMMUNICATIONS DISTRICT BOARDS OF DIRECTORS PARTICIPATION BY ELECTRONIC MEANS

Effective April 28, 2017, Public Chapter 217 amends the Tennessee Open Meetings Act to allow members of an emergency communications district board of directors to participate in board meetings by electronic means. Members participating by electronic means are deemed to be present for purposes of creating a quorum and may vote on matters before the board to the same extent as members physically present during the meeting. Tenn. Code Ann. § 8-44-108(d).

Click [here](#) to view the fill language of the new law.

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