



OPEN RECORDS LEGISLATIVE UPDATE

Office of Open Records Counsel
August 12, 2019

Justin P. Wilson
Comptroller of the Treasury



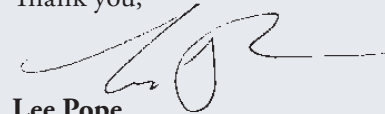
Jason E. Mumpower
Deputy Comptroller

MESSAGE FROM THE OFFICE OF OPEN RECORDS COUNSEL




Provided below is a summary of new laws passed during the first session of the 111th General Assembly affecting public records and open meetings in Tennessee. This summary is provided by the Comptroller's Office of Open Records Counsel as part of the office's ongoing effort to educate public officials and citizens about open records and open meetings laws in Tennessee.

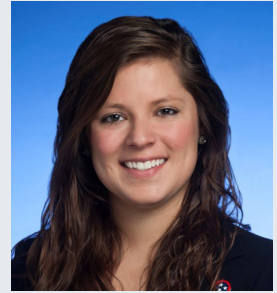
Thank you,



Lee Pope
Open Records Counsel



Rachel Buckley
Assistant General Counsel



1. Off-Site Storage of Public Records

Effective March 28, 2019, Public Chapter 68 allows registers of deeds to store public records at an alternative suitable facility that stores local government records securely against theft and natural disasters. Tenn. Code Ann. § 8-13-107. Additionally, effective April 3, 2019, Public Chapter 79 allows court clerks and county clerks to store public records at an alternative suitable facility that stores local government records securely against theft and natural disasters. Tenn. Code Ann. §§ 18-6-109, 32-2-102. Previously, registers of deeds, county clerks, and court clerks were required to keep these records within their offices.

Click [here](#) to view the full language of Public Chapter 68.

Click [here](#) to view the full language of Public Chapter 79.

2. Identity of Donors to Tennessee State Museum

Effective April 3, 2019, Public Chapter 81 allows donors to the Tennessee State Museum to request that their personal information be maintained as confidential. Tenn. Code Ann. § 10-7-504(x). The new law is scheduled to repeal on July 1, 2026. Id.

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

3. Tennessee Sports Hall of Fame

Effective April 4, 2019, Public Chapter 88 reconstitutes the Board of Directors for the Tennessee Sports Hall of Fame within the Tennessee Department of Tourist Development. Tenn. Code Ann. § 4-3-5404. The new law specifies that all meetings of the board must comply with the Tennessee Open Meetings Act and that all records of the board are public record subject to disclosure under the Tennessee Public Records Act. Id.

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

4. Personal Information in Motor Vehicle Accident Reports

Effective July 1, 2019, Public Chapter 111 makes personally identifying information in motor vehicle accident reports confidential and not open for public inspection. Tenn. Code Ann. § 10-7-504(a)(31). Accident reports containing personally identifying information may be disclosed to certain persons authorized to obtain motor vehicle records pursuant to the Uniform Motor Vehicle Records Disclosure Act and law enforcement agencies may release motor vehicle accident information if it is in the best interest of the agency and for the public good. Tenn. Code Ann. § 10-7-504(a)(31)(B)-(D). The new law is scheduled to repeal on July 1, 2026. Tenn. Code Ann. § 10-7-504(a)(31)(F).

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

5. Quality Improvement Committee access to Controlled Substance Database Records

Effective April 9, 2019, Public Chapter 124 allows quality improvement committees to access otherwise confidential information contained in the controlled substance database as part of the review process of healthcare practitioners. Tenn. Code Ann. § 53-10-306(a).

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

6. Redaction of Court Filings

Effective April 17, 2019, Public Chapter 151 provides that filings in civil courts shall be redacted to only include the last 4 digits of an individual's social security number or taxpayer identification number, the year of an individual's date of birth, the initials of a minor, and the last 4 digits of any financial account numbers. Tenn. Code Ann. § 20-6-104.

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

7. Commemorative Certificate of Nonviable Birth

Effective April 18, 2019, Public Chapter 156 provides that commemorative certificates of nonviable birth issued by the Tennessee Department of Health are not public record subject to the Tennessee Public Records Act. Tenn. Code Ann. § 68-3-515(g).

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

8. Juvenile Court Records related to Aggravated Sexual Battery

Effective April 23, 2019, Public Chapter 177 allows for the disclosure of juvenile court records related to proceedings where the juvenile is over 14 years of age at the time of the act and the juvenile conduct, if committed by an adult, would constitute aggravated sexual battery. Tenn. Code Ann. § 37-1-153(b)(2).

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

9. Wholesaler Reports of Beer, Tobacco, Food, Candy, and Non-Alcoholic Beverage Sales

Effective April 23, 2019, Public Chapter 179 makes wholesaler reports of beer, tobacco, food, candy and non-alcoholic beverage sales submitted to the Tennessee Department of Revenue pursuant to Tenn. Code Ann. § 67-6-410 confidential tax information. Tenn. Code Ann. § 67-6-410(l).

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

10. Court Records Related to Expungement of Convictions by Victims of Human Trafficking

Effective July 1, 2019, Public Chapter 199 provides that records related to the expungement of nonviolent convictions for offenses related to prostitution by a victim of human trafficking are confidential and may only be used to enhance a sentence if the individual is subsequently charged and convicted of another crime. Tenn. Code Ann. § 40-32-105(j).

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

11. Charter School Commission Subject to Public Records and Open Meetings Laws

Effective April 26, 2019, Public Chapter 219 establishes the Tennessee Public Charter School Commission and provides that the commission is subject to Tennessee's public records and open meetings laws. Tenn. Code Ann. § 49-13-105(h).

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

12. Government Operations Committee Review of Public Records Exceptions

Effective July 1, 2019, Public Chapter 221 provides that any legislation in the House of Representatives that creates an exception to the Tennessee Public Records Act must be referred to the House Government Operations Committee. Tenn. Code Ann. § 10-7-517(a). The Government Operations Committee will review the legislation and give it a positive, neutral, or negative recommendation. Tenn. Code Ann. § 10-7-517(b).

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

13. Disclosure of Personal Information for Airbag Recall Notification

Effective April 30, 2019, Public Chapter 227 authorizes the Commissioner of the Tennessee Department of Safety to disclose otherwise confidential personal information of any owner of a vehicle affected by an airbag recall to the original equipment manufacturer in order to allow the manufacturer to contact the owner about the recall. Tenn. Code Ann. § 55-2-115(b).

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

14. Confidentiality of Intercollegiate Athletic Program Records

Effective May 2, 2019, Public Chapter 248 makes records maintained by an intercollegiate athletics program of a public institution of higher education confidential, if the records contain information relating to game or player integrity that is not traditionally revealed publicly due to the public institution's need to maintain competitiveness. Tenn. Code Ann. § 49-7-170(a). The new law is scheduled to repeal on July 1, 2026. Tenn. Code Ann. § 49-7-170(f).

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

15. Review of School Bus Photographs and Video

Effective April 30, 2019, Public Chapter 256 requires local Boards of Education to adopt a policy that establishes a process for parents to view photographs or video footage collected from a camera installed inside a school bus. Tenn. Code Ann. § 49-6-2119(a). The footage must be reviewed under the supervision of a school official, and the policy must comply with the Family Education Rights and Privacy Act and all other relevant state and federal privacy laws. Tenn. Code Ann. § 49-6-2119(b).

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

16. Mental Health Patient Information

Effective July 1, 2019, Public Chapter 262 expands the list of confidential information pertaining to individuals that are judicially committed, or adjudicated as mentally defective, to include the race and sex of the individual as well as the social security number of the individual. Tenn. Code Ann. §§ 16-11-206(c), 16-15-303(g)(3), 33-3-115(b).

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

17. Attorney General Access to Controlled Substances Database

Effective April 30, 2019, Public Chapter 264 requires the Controlled Substance Committee or the Commissioner of the Tennessee Department of Health to release confidential information from the controlled substance database to the Office of the Attorney General and Reporter, upon request, for the purpose of reviewing, querying, or otherwise using the data in conjunction with investigating or litigating a civil action involving controlled substances. Tenn. Code Ann. § 53-10-308(a)(4).

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

18. Records Provided to Community Oversight Board

Effective May 8, 2019, Public Chapter 320 provides that any records provided to a community oversight board that are made confidential pursuant to state law shall be treated as confidential and may not be released to the public. Tenn. Code Ann. § 38-8-352(e).

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

19. Local Government Right of Subrogation

Effective July 1, 2019, Public Chapter 325 specifies certain subrogation rights of counties, municipalities and special school districts with respect to employee claims. Under the new law, third-party claim administrators must provide local government entities with certain claim information, but the third party establishes confidentiality requirements for the information provided. Tenn. Code Ann. §§ 8-27-507(c)(2), 8-27-608(c)(2).

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

20. Commercial Non-Motorized Vessel Information

Effective July 1, 2019, Public Chapter 347 provides that information on the number and type of non-motorized vessels submitted to the Fish and Wildlife Commission by commercial non-motorized vessel outfitters must be filed under seal only for the use of the commission and the Tennessee Wildlife Resource Agency, and the information may only be used in the aggregate in agency reports and records. Tenn. Code Ann. § 69-9-227(c).

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

21. School Threat Assessment Teams

Effective May 10, 2019, Public Chapter 394 authorizes local education agencies to establish threat assessment teams for the purpose of developing comprehensive intervention-based approaches to prevent violence, managing reports of potential threats, and creating a system that fosters a safe, supportive and effective school environment. Tenn. Code Ann. § 49-6-2601(a). All documents produced or obtained by threat assessment teams are not public record, and the threat assessment team meetings are not public meetings subject to the Open Meetings Act. Tenn. Code Ann. § 49-6-2601(f).

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

22. Identifying Information in Settlement Agreements

Effective May 21, 2019, Public Chapter 425 prohibits governmental entities from agreeing to make the identity of parties to a settlement agreement confidential, unless the identifying information concerns a victim of sexual harassment, domestic assault, unlawful photography, incest, child abuse, neglect or endangerment, or aggravated child abuse, neglect or endangerment. Tenn. Code Ann. § 29-34-106.

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

23. Department of Health Investigative Records

Effective May 22, 2019, Public Chapter 447 allows law enforcement agencies to subpoena otherwise confidential records related to Tennessee Department of Health investigations into healthcare provider complaints. Tenn. Code Ann. § 63-1-117(f).

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

24. Reports of Child Fatality or Near Fatality

Effective May 24, 2019, Public Chapter 472 allows a district attorney general to discuss the contents of a report of child fatality, or near fatality, with legislators, and allows the district attorney general to access any confidential information a legislator may have acquired from the Tennessee Department of Children's Services pursuant to Tenn. Code Ann. § 37-5-107(d). Tenn. Code Ann. § 37-5-124(a).

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

25. Alteration or Destruction of Public Records

Effective July 1, 2019, Public Chapter 495 increases the punishment for the unlawful alteration or destruction of governmental records from a Class A misdemeanor to a Class E felony. Tenn. Code Ann. § 39-16-504.

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

26. Tennessee Board of Judicial Conduct

Effective May 24, 2019, Public Chapter 496 reconstitutes the Tennessee Board of Judicial Conduct and provides that complaints made to the board regarding the potential physical or mental disability of a judge are confidential. Tenn. Code Ann. § 17-5-302(b). Notice of private reprimands of judges provided to the Speaker of the House and Speaker of the Senate are also made confidential. Tenn. Code Ann. § 17-5-203(b)(2).

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

27. Sports Wagering

Effective July 1, 2019, Public Chapter 507 enacts the Tennessee Sports Gaming Act. The Act creates a Sports Wagering Advisory Council within the Tennessee Education Lottery Corporation ("TELC") that must prescribe by rule the type of information deemed to be confidential financial or proprietary information that is not subject to the reporting requirements of the Act. Tenn. Code Ann. § 4-51-310(4). The Act further provides that the TELC shall maintain a confidential registry of persons ineligible to wager on sports in this state. Tenn. Code Ann. § 4-51-312(c).

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

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