



# OPEN RECORDS LEGISLATIVE UPDATE

Office of Open Records Counsel  
SUMMER 2021

**Jason E. Mumpower**  
*Comptroller of the Treasury*



**Justin P. Wilson**  
*Comptroller Emeritus*

## MESSAGE FROM THE OFFICE OF OPEN RECORDS COUNSEL



Below is a summary of new laws passed during the first session of the 112th General Assembly affecting public records and open meetings in Tennessee. The Office of Open Records Counsel provides this summary to educate public officials and citizens about recent changes to the open records and open meetings laws in Tennessee.

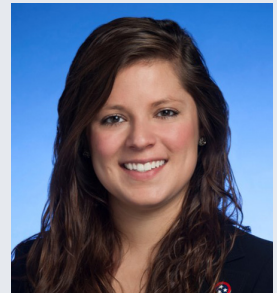
Thank you,

**Lee Pope**  
*Open Records Counsel*

A handwritten signature in black ink, appearing to read 'Lee Pope', with a horizontal line extending to the right.

A handwritten signature in black ink, appearing to read 'Rachel Buckley', with a horizontal line extending to the right.

**Rachel Buckley**  
*Assistant General Counsel*



### 1. Disruptive Public Record Requests

Effective April 28, 2021, Public Chapter 242 authorizes records custodians to petition a court to enjoin a person from making public record requests with the intent to disrupt government operations. A records custodian shall not petition a court for the injunction without first providing written notice to the requestor that their request may constitute the intent to disrupt government operations and the person continues to engage in such conduct after the notification. Such notice must be provided after a fifth request is made by the person with intent to disrupt government operations.

A records custodian must continue to comply with the Tennessee Public Records Act (“TPRA”) during the pendency of the petition. If the records custodian prevails on the petition, the person making the request will be required to reimburse the records custodian for any labor costs incurred by the records custodian in producing records during the pendency of the case.

A court may, upon finding by clear and convincing evidence that a records request was made with intent to disrupt government operations, enjoin the requestor from making a public records request for up to one year; provided, that a person so enjoined may petition the same court for permission to make a public records request, and the court may approve the petition if the petitioner shows that the public records request is not made with intent to disrupt government operations.

A records custodian who petitions a court for an injunction must provide a written report to the Office of Open Records Counsel that includes a copy of the petition and any injunctions or orders issued by the court. The Office of Open Records Counsel must include a summary of all such reports received as part of the Office’s annual report and provide the summary to the advisory committee on open government.

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

## 2. Records of Associations and Nonprofit Corporations

Effective May 4, 2021, Public Chapter 337 makes the records of certain associations and nonprofit corporations confidential if the association or nonprofit corporation is annually audited by the comptroller of the Treasury or the comptroller's designee in accordance with specific guidelines set forth in the statute. The annual audit of the organization must be made publicly available.

The new law also clarifies that records of associations and nonprofit corporations that employ less than three full-time staff, or that are exempt from federal income tax, are confidential, regardless of whether the organization is annually audited in accordance with the provisions of the statute.

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

## 3. Identifying Information of Arrested Individuals

Effective May 26, 2021, Public Chapter 555 makes the home street address, excluding the name of the city or the zip code, personal telephone number, and social security number, of a person who has been arrested or charged, but not convicted, of a criminal offense confidential. The new law applies to information compiled by and in the possession of municipal and county law enforcement agencies and detention facilities. The new law does not apply to individuals arrested or charged for a parole or probation violation during the term of a suspended or deferred sentence.

The new law also authorizes owners of real property listed in accident reports to receive an unredacted copy of an accident report.

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

## 4. Destruction of Public Records by a County Public Records Commission

Effective May 13, 2021, Public Chapter 447 prohibits a county public records commission from destroying original public records for one year, if the record is created between May 13, 2021, and July 1, 2022, or for six months, if created between July 1, 2022, and July 1, 2023. The new law also allows the public records commission to authorize the destruction of original service of process in civil and criminal proceedings, which was previously prohibited by state law.

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

## 5. Records Involving Minors on School Property

Effective May 11, 2021, Public Chapter 391 makes confidential records created by a school resource or other law enforcement officer involving a minor student attending an institution of secondary or elementary education or records maintained by a law enforcement agency as the result of an incident involving a minor that occurred on school property and did not result in a charge of delinquency. However, such records may be disclosed with consent from the minor's parent or guardian, pursuant to a court order, or if a law enforcement officer from another jurisdiction requests the records for the discharge of the officer's official duties.

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

## 6. Personal Privacy Protection Act

Effective October 1, 2021, Public Chapter 516 prohibits a public agency from disclosing the name or data of any kind that directly or indirectly identifies a person as a member, supporter, or volunteer of, or donor of financial or nonfinancial support to, any entity exempt from federal income tax under Section 501(c) of the Internal Revenue Code. Such information may be released to the extent required by state or federal law, as necessary for law enforcement investigations, or when there is a compelling need for the information during litigation.

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

## **7. Department of Human Services Investigations**

Effective July 1, 2021, Public Chapter 515 makes records and information related to Department of Human Services investigations into fraud, theft, abuse, misappropriation, or misconduct regarding programs administered by the department confidential during the pendency of the investigation and court proceedings.

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

## **8. Personal Information Related to Property Alert Services**

Effective May 4, 2021, Public Chapter 333 makes personally identifying information provided by an individual as part of the individual's use of, or participation in, a government-sponsored or -supported property alert service or program confidential. Such "personally identifying information" includes the name, mailing address, physical address, phone number, email address, social security number, or any other personally identifying information provided by an individual, regardless of whether the individual is a citizen of this state.

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

## **9. Evidence Related to Petitions for Expunction**

Effective July 1, 2021, Public Chapter 539 makes evidence filed under seal by a district attorney general related to a petition for expunction confidential and not public record.

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

## **10. Photographs of Minors in Fatal Car Accidents**

Effective July 1, 2021, Public Chapter 304 makes photographic evidence of a fatal motor vehicle accident that depicts a deceased minor victim at the scene of an accident confidential and not open for inspection to members of the public. The parent or legal guardian of the minor may waive the confidentiality of the photographs to allow for public disclosure, and the statute does not limit access to the records by agencies investigating or prosecuting a criminal offense.

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

## **11. Adoption Contact Veto Registry**

Effective July 1, 2021, Public Chapter 101 amends TPRAs exceptions relative to adoption records by deleting the Department of Children's Services confidential adoption contact veto registry and no longer requiring adoption records be placed under seal after an entry of an order revoking surrender or parental consent, an order dismissing a termination of parental rights proceeding filed in conjunction with an adoption proceeding, or upon conclusion of all termination of parental rights proceedings that were filed in conjunction with an adoption proceeding.

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

## **12. Controlled Substance Database Information**

Effective April 13, 2021, Public Chapter 136 amends TPRAs exceptions governing who may access confidential information from the Tennessee Controlled Substances Database. The new law authorizes the assistant state medical examiner, deputy county medical examiner, and forensic pathologist under the control or direction of the chief medical examiner or a county medical examiner to access otherwise confidential information in the database.

The bill also allows for the use of “deidentified” personal data to be used from the database for educational outreach and allows the department of health to share the data with other state and federal entities charged with protecting public health.

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

### **13. Trust Registration Information**

Effective January 1, 2022, Public Chapter 420 makes trusts registered with the Tennessee Secretary of State confidential and not subject to disclosure under the TPRA. The settlor, a trustee, trust advisor, or trust protector for the trust may obtain a certified copy of the registration upon filing a request with the secretary of state that includes a signed attestation that they are the settlor or a currently serving trustee, trust advisor, or trust protector, and paying a filing fee of one hundred dollars (\$100) payable to the secretary of state. If the requesting person is not listed in the initial registration, such as in the case of a newly appointed trustee, trust advisor, or trust protector, then the requesting party must provide documentation evidencing the requesting party’s appointment.

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

### **14. TBI Sexual Assault Tracking System Information Confidential**

Effective July 1, 2021, Public Chapter 362 makes confidential the records and information contained in a Tennessee Bureau of Investigation electronic system that tracks the location and laboratory analysis status of each sexual assault evidence collection kit and hold kit released to a law enforcement agency at the conclusion of a forensic medical examination on or after July 1, 2022.

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

### **15. Confidential Information Provided to a Healthcare Quality Improvement Committee**

Effective July 1, 2021, Public Chapter 150 adds federally qualified health centers to the list of “healthcare organizations” whose statements and testimony must be maintained as confidential by a Quality Improvement Committee when evaluating services provided by healthcare providers under the Tennessee Patient Safety and Quality Improvement Act of 2011.

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

### **16. Virtual Corporate Shareholder Meetings**

Effective April 7, 2021, Public Chapter 85 authorizes shareholders and proxyholders to participate in meetings by remote means if the corporation implements reasonable measures to verify that each person is a shareholder or proxyholder, the shareholders and proxyholders can read and hear the proceedings of the meeting substantially concurrently with the proceedings, and the corporation maintains a record of any vote or other action taken by means of remote communication.

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

### **17. Conservatorship Physical and Psychological Examinations**

Effective May 4, 2021, Public Chapter 305 makes reports and documents related to physical and psychological examinations conducted as part of conservatorship proceedings confidential. However, the respondent, their attorney, and an investigative body may access such records as otherwise authorized or required by law.

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

## **18. Alcohol Wholesaler Information**

Effective May 4, 2021, Public Chapter 324 requires the Department of Revenue to make available to the public the identity of alcohol wholesalers and suppliers operating in this state, including their addresses, brands, and designated territories for which a contract has been registered with the department. The department may make such information electronically available.

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

## **19. Critical Incident Stress Management Intervention Communications**

Effective July 1, 2021, Public Chapter 245 expands the confidentiality of critical incident stress management intervention communications between a peer supporter and first responder to include communications occurring before, during, or after a crisis or disaster. Such communications were previously confidential only if they occurred during or after a crisis or disaster.

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

## **20. Federal Law Enforcement Officer Information**

Effective April 28, 2021, Public Chapter 253 adds federal law enforcement officers conducting operations in the state to the list of government employees whose personal information is protected under Tenn. Code Ann. § 10-7-504(f).

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

## **21. Disclosure of Crash Reports to Members of General Assembly**

Effective July 1, 2021, Public Chapter 225 authorizes members of the general assembly to request copies of crash reports concerning fatal accidents occurring in the member's districts from the Tennessee Department of Safety and Homeland Security. Crash reports that are subject to ongoing investigations or a court order making the information confidential are not subject to release and any information made confidential by state or federal law must still be redacted from the reports prior to disclosure.

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

## **22. Insurance Data Security Law**

Effective July 1, 2021, Public Chapter 345 enacts the Insurance Data Security Law, which establishes standards for insurance data security and investigations of cybersecurity incidents related to insurance licensees. The new law provides that records and information obtained by the Tennessee Department of Commerce and Insurance in connection with investigations or examinations conducted under the new law are confidential and not open to public inspection, and the records may only be shared under certain specified circumstances.

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

## **23. Psychology Interjurisdictional Compact Commission**

Effective May 11, 2021, Public Chapter 352 creates an interjurisdictional compact commission to oversee the practice of psychology among compacting states. The new law authorizes the commission to investigate psychologists practicing in their respective compact states. Any information related to the investigation that is received by the commission is confidential and may only be used for investigatory or disciplinary matters.

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

## **24. Business Owner Name, Address, and Veteran or Minority Status**

Effective May 4, 2021, Public Chapter 327 provides that the state revenue tax laws do not make the name, address, and veteran or minority status of a business owner confidential tax information.

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

## **25. Automatic License Plate Reader Information**

Effective April 22, 2021, Public Chapter 201 makes data captured by automatic license plate readers confidential. “Captured plate data” includes global positioning system coordinates, date and time information, photographs, license plate numbers, and any other data captured by, or derived from, any automatic license plate reader system.

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

## **26. Victim Home Address Confidentiality Program**

Effective April 13, 2021, Public Chapter 140 allows relatives or individuals residing with a crime victim to obtain a substitute address under the secretary of state’s victim home address confidentiality program. Any of the information supplied as part of the application process must remain confidential and is not open to public inspection unless the program participant voluntarily discloses such information.

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

## **27. Child Abuse Records**

Effective July 1, 2021, Public Chapter 590 makes it a Class A misdemeanor for any person to attempt to access or obtain confidential information from the Tennessee Department of Children’s Services regarding alleged child abuse or neglect when the person knows obtaining the confidential information is in violation of state or federal law.

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

## **28. Tennessee Office of Cooperative Disability Investigation**

Effective July 1, 2021, Public Chapter 546 creates the Tennessee office of cooperative disability investigation within the Tennessee Department of Finance and Administration to investigate disability claims. All records obtained by the office pursuant to the statute are confidential investigative records and not subject to public inspection.

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

## **29. Law Enforcement Drone Surveillance**

Effective May 18, 2021, Public Chapter 462 amends the Freedom from Unwanted Surveillance Act to require the deletion of any law enforcement drone recordings within fifteen (15) business days after collection unless the evidence, information, or other data is directly relevant to the lawful reason the drone was being used or to an investigation or criminal prosecution. If the evidence, information, or other data is directly relevant to either, the evidence must be retained and deleted by the collecting law enforcement agency in accordance with the same criteria, policies, and procedures used by the agency for evidence collected by methods other than a drone. Under prior law, law enforcement agencies were obligated to delete such surveillance within three business days. Public Chapter 462 will terminate on July 1, 2024.

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

## **30. Juvenile Delinquent Data**

Effective July 1, 2021, Public Chapter 184 requires juvenile courts to assign a unique identifier to juveniles alleged to be delinquent or unruly and to report prescribed information regarding such cases monthly to the Administrative Office of the Courts. Any identifying information received by the Administrative Office of the Courts is confidential and not subject to public disclosure. However, the Administrative Office of the Courts may release deidentified data concerning the cases.

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

## **31. Disposition of Fetal Remains**

Effective July 1, 2021, Public Chapter 348 makes the completed forms promulgated by the Tennessee Department of Health related to the disposition of fetal remains after a surgical abortion confidential. The physician performing the abortion is required to retain the completed forms in the pregnant woman's medical record as a record of the disposition of the fetal remains and shall report the disposition of the remains to the Commissioner of the Tennessee Department of Health.

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

## **32. Second Amendment Privacy and Protection Act**

Effective July 1, 2021, Public Chapter 554 requires the redaction of firearm information from public records that contain information related to the possession of firearms. Firearm information is not defined in the new law.

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



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