

Tennessee Open Records Act

TENNESSEE CODE ANNOTATED

*** CURRENT THROUGH THE 2009 SESSION ***

TITLE 10. PUBLIC LIBRARIES, ARCHIVES AND RECORDS CHAPTER 7. PUBLIC RECORDS PART 5. MISCELLANEOUS PROVISIONS

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§ 10-7-501. **Reproduction of state records on film**

The head of any department, commission, board, or agency of the state government may cause any or all records kept by such head or it to be photographed, microphotographed or reproduced on film; provided, that the microfilm project has been evaluated and approved by the records management division of the department of general services. Such photographic film shall comply with the minimum standards of quality approved for permanent photographic records by the national bureau of standards, and the device used to reproduce such records on film shall be one which accurately reproduces the original thereof in all details.

HISTORY: Acts 1947, ch. 26, § 1; C. Supp. 1950, § 255.93 (Williams, § 1034.80); Acts 1977, ch. 38, § 1; T.C.A. (orig. ed.), § 15-301; Acts 1981, ch. 364, § 3.

§ 10-7-502. **Photographic copy deemed original record**

(a) Any photograph, microphotograph or photographic film of any state, county, or municipal public record is deemed to be an original record for all purposes, including introduction into evidence in all courts or administrative agencies.

(b) A transcript, exemplification, or certified copy thereof shall, for all purposes recited therein, be deemed to be a

transcript, exemplification or certified copy of the original.

HISTORY: Acts 1947, ch. 26, § 3; C. Supp. 1950, § 255.93 (Williams, § 1034.82); T.C.A. (orig. ed.), § 15-303; Acts 1991, ch. 369, § 6.

§ 10-7-503. Records open to public inspection – Schedule of reasonable charges -- Costs

(a)(1) As used in this part and title 8, chapter 4, part 6, “public record or records” or “state record or records” means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.

(2)(A) All state, county and municipal records shall, at all times during business hours, which for public hospitals shall be during the business hours of their administrative offices, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law.

(2)(A) All state, county and municipal records shall, at all times during business hours, which for public hospitals shall be during the business hours of their administrative offices, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law.

(B) The custodian of a public record or the custodian's designee shall promptly make available for inspection any public record not specifically exempt from disclosure. In the event it is not practicable for the record to be promptly available for inspection, the custodian shall, within seven (7) business days:

(i) Make the information available to the requestor;

(ii) Deny the request in writing or by completing a records request response form developed by the office of open records counsel. The response shall include the basis for the denial; or

(iii) Furnish the requestor a completed records request response form developed by the office of open records counsel stating the time reasonably necessary to produce the record or information.

(C) *Deleted by the code commission in 2008.*

(3) Failure to respond to the request as described in subdivision (a)(2) shall constitute a denial and the person making the request shall have the right to bring an action as provided in § 10-7-505.

(4) This section shall not be construed as requiring a governmental entity or public official to sort through files to compile information; however, a person requesting the information shall be allowed to inspect the non-exempt records.

(5) This section shall not be construed as requiring a governmental entity or public official to create a record that does not exist; however, the redaction of confidential information from a public record or electronic database shall not constitute a new record.

(6) A governmental entity is prohibited from avoiding its disclosure obligations by contractually delegating its responsibility to a private entity.

(7)(A) A records custodian may not require a written request or assess a charge to view a public record unless otherwise required by law; however, a records custodian may require a request for copies of public records to be in writing or that the request be made on a form developed by the office of open records counsel. The records custodian may also require any citizen making a request to view a public record or to make a copy of a public record to present a photo identification, if the person possesses a photo identification, issued by a governmental entity, that

includes the person's address. If a person does not possess a photo identification, the records custodian may require other forms of identification acceptable to the records custodian.

(B) Any request for inspection or copying of a public record shall be sufficiently detailed to enable the records custodian to identify the specific records to be located or copied.

(C)(i) A records custodian may require a requestor to pay the custodian's reasonable costs incurred in producing the requested material and to assess the reasonable costs in the manner established by the office of open records counsel pursuant to § 8-4-604.

(ii) The records custodian shall provide a requestor an estimate of the reasonable costs to provide copies of the requested material.

(b) The head of a governmental entity may promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to maintain the confidentiality of records concerning adoption proceedings or records required to be kept confidential by federal statute or regulation as a condition for the receipt of federal funds or for participation in a federally funded program.

(c)(1) Except as provided in § 10-7-504(g), all law enforcement personnel records shall be open for inspection as provided in subsection (a); however, whenever the personnel records of a law enforcement officer are inspected as provided in subsection (a), the custodian shall make a record of such inspection and provide notice, within three (3) days from the date of the inspection, to the officer whose personnel records have been inspected:

(A) That such inspection has taken place;

(B) The name, address and telephone number of the person making such inspection;

(C) For whom the inspection was made; and

(D) The date of such inspection.

(2) Information made confidential by this chapter shall be redacted whenever possible, but the costs associated with redacting records or information, including the cost of copies and staff time to provide redacted copies, shall be borne as provided by current law.

(3) Any person making an inspection of such records shall provide such person's name, address, business telephone number, home telephone number, driver license number or other appropriate identification prior to inspecting such records.

(d)(1) All records of any association or nonprofit corporation described in § 8-44-102(b)(1)(E)(i) shall be open for inspection as provided in subsection (a); provided, that any such organization shall not be subject to the requirements of this subsection (d) so long as it complies with the following requirements:

(A) The board of directors of the organization shall cause an annual audit to be made of the financial affairs of the organization, including all receipts from every source and every expenditure or disbursement of the money of the organization, made by a disinterested person skilled in such work. Each audit shall cover the period extending back to the date of the last preceding audit and it shall be paid out of the funds of the organization;

(B) Each audit shall be conducted in accordance with the standards established by the comptroller of the treasury pursuant to § 4-3-304(9) for local governments;

(C) The comptroller of the treasury, through the department of audit, shall be responsible for ensuring that the audits are prepared in accordance with generally accepted governmental auditing standards, and determining whether the audits meet minimum audit standards which shall be prescribed by the comptroller of the treasury. No audit may be accepted as meeting the requirements of this section until such audit has

been approved by the comptroller of the treasury;

(D) The audits may be prepared by a certified public accountant, a public accountant or by the department of audit. If the governing body of the municipality fails or refuses to have the audit prepared, the comptroller of the treasury may appoint a certified public accountant or public accountant or direct the department to prepare the audit. The cost of such audit shall be paid by the organization;

(E) Each such audit shall be completed as soon as practicable after the end of the fiscal year of the organization. One (1) copy of each audit shall be furnished to the organization and one (1) copy shall be filed with the comptroller of the treasury. The copy of the comptroller of the treasury shall be available for public inspection. Copies of each audit shall also be made available to the press; and

(F) In addition to any other information required by the comptroller of the treasury, each audit shall also contain:

(i) A listing, by name of the recipient, of all compensation, fees or other remuneration paid by the organization during the audit year to, or accrued on behalf of, the organization's directors and officers;

(ii) A listing, by name of recipient, of all compensation and any other remuneration paid by the organization during the audit year to, or accrued on behalf of, any employee of the organization who receives more than twenty-five thousand dollars (\$ 25,000) in remuneration for such year;

(iii) A listing, by name of beneficiary, of any deferred compensation, salary continuation, retirement or other fringe benefit plan or program (excluding qualified health and life insurance plans available to all employees of the organization on a nondiscriminatory basis) established or maintained by the organization for the benefit of any of the organization's directors, officers or employees, and the amount of any funds paid or accrued to such plan or program during the audit year; and

(iv) A listing, by name of recipient, of all fees paid by the organization during the audit year to any contractor, professional advisor or other personal services provider, which exceeds two thousand five hundred dollars (\$ 2,500) for such year. Such listing shall also include a statement as to the general effect of each contract, but not the amount paid or payable thereunder.

The provisions of this subsection (d) shall not apply to any association or nonprofit corporation described in § 8-44-102(b)(1)(E)(i), that employs no more than two (2) full-time staff members.

(2) The provisions of this subsection (d) shall not apply to any association, organization or corporation that was exempt from federal income taxation under the provisions of § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)) as of January 1, 1998, and which makes available to the public its federal return of organization exempt from income tax (Form 990) in accordance with the Internal Revenue Code and related regulations.

(e) All contingency plans of law enforcement agencies prepared to respond to any violent incident, bomb threat, ongoing act of violence at a school or business, ongoing act of violence at a place of public gathering, threat involving a weapon of mass destruction, or terrorist incident shall not be open for inspection as provided in subsection (a).

(f) All records, employment applications, credentials and similar documents obtained by any person in conjunction with an employment search for a director of schools or any chief public administrative officer shall at all times, during business hours, be open for personal inspection by any citizen of Tennessee, and those in charge of such records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law. For the purposes of this subsection (f), the term "person" includes a natural person, corporation, firm, company, association or any other business entity.

HISTORY: Acts 1957, ch. 285, § 1; T.C.A., § 15-304; Acts 1981, ch. 376, § 1; 1984, ch. 929, §§ 1, 3; 1991, ch. 369, § 7; 1993, ch. 475, § 1; 1998, ch. 1102, §§ 2, 4; 1999, ch. 514, § 1; 2000, ch. 714, § 1; 2005, ch. 263, § 1 2007, ch.

§ 10-7-504. Confidential records

- (a)(1) The medical records of patients in state, county and municipal hospitals and medical facilities, and the medical records of persons receiving medical treatment, in whole or in part, at the expense of the state, county or municipality, shall be treated as confidential and shall not be open for inspection by members of the public. Any records containing the source of body parts for transplantation or any information concerning persons donating body parts for transplantation shall be treated as confidential and shall not be open for inspection by members of the public.
- (2)(A) All investigative records of the Tennessee bureau of investigation, the office of inspector general, all criminal investigative files of the department of agriculture and the department of environment and conservation, all criminal investigative files of the motor vehicle enforcement division of the department of safety relating to stolen vehicles or parts, and all files of the handgun carry permit and driver license issuance divisions of the department of safety relating to bogus handgun carry permits and bogus driver licenses issued to undercover law enforcement agents shall be treated as confidential and shall not be open to inspection by members of the public. The information contained in such records shall be disclosed to the public only in compliance with a subpoena or an order of a court of record; provided, however, that such investigative records of the Tennessee bureau of investigation shall be open to inspection by elected members of the general assembly if such inspection is directed by a duly adopted resolution of either house or of a standing or joint committee of either house. Records shall not be available to any member of the executive branch except to the governor and to those directly involved in the investigation in the specified agencies.
- (B) The records of the departments of agriculture and environment and conservation referenced in subdivision (a)(2)(A) shall cease to be confidential when the investigation is closed by the department or when the court in which a criminal prosecution is brought has entered an order concluding all proceedings and the opportunity for direct appeal has been exhausted; provided, however, that any identifying information about a confidential informant or undercover law enforcement agent shall remain confidential.
- (C) The Tennessee bureau of investigation, upon written request by an authorized person of a state governmental agency, is authorized to furnish and disclose to the requesting agency the criminal history, records and data from its files, and the files of the federal government and other states to which it may have access, for the limited purpose of determining whether a license or permit should be issued to any person, corporation, partnership or other entity, to engage in an authorized activity affecting the rights, property or interests of the public or segments thereof.
- (3) The records, documents and papers in the possession of the military department which involve the security of the United States and/or the state of Tennessee, including, but not restricted to, national guard personnel records, staff studies and investigations, shall be treated as confidential and shall not be open for inspection by members of the public.
- (4)(A) The records of students in public educational institutions shall be treated as confidential. Information in such records relating to academic performance, financial status of a student or the student's parent or guardian, medical or psychological treatment or testing shall not be made available to unauthorized personnel of the institution or to the public or any agency, except those agencies authorized by the educational institution to conduct specific research or otherwise authorized by the governing board of the institution, without the consent of the student involved or the parent or guardian of a minor student attending any institution of elementary or secondary education, except as otherwise provided by law or regulation pursuant thereto, and except in consequence of due legal process or in cases when the safety of persons or property is involved. The governing board of the institution, the department of education, and the Tennessee higher education commission shall have access on a confidential basis to such records as are required to fulfill their lawful functions. Statistical information not identified with a particular student may be released to any person, agency, or the public; and information relating only to an individual student's name, age, address, dates of attendance, grade levels completed, class placement and academic degrees awarded may likewise be

disclosed.

(B) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by the federal Family Educational Rights and Privacy Act (FERPA), an institution of post-secondary education shall disclose to an alleged victim of any crime of violence, as that term is defined in 18 U.S.C. § 16, or a nonforcible sex offense, the final results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime or offense with respect to such crime or offense.

(C) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by FERPA, an institution of post-secondary education shall disclose the final results of any disciplinary proceeding conducted by such institution against a student who is an alleged perpetrator of any crime of violence, as that term is defined in 18 U.S.C. § 16, or a nonforcible sex offense, if the institution determines as a result of that disciplinary proceeding that the student committed a violation of the institution's rules or policies with respect to such crime or offense.

(D) For the purpose of this section, the final results of any disciplinary proceeding:

- (i) Shall include only the name of the student, the violation committed, and any sanction imposed by the institution on that student;
- (ii) May include the name of any other student, such as a victim or witness, only with the written consent of that other student; and
- (iii) Shall only apply to disciplinary hearings in which the final results were reached on or after October 7, 1998.

(E) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by FERPA, an educational institution shall disclose information provided to the institution under § 40-39-106, concerning registered sex offenders who are required to register under § 40-39-103.

(F) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by FERPA, an institution of higher education shall disclose to a parent or legal guardian of a student information regarding any violation of any federal, state, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance, regardless of whether that information is contained in the student's education records, if:

- (i) The student is under the age of twenty-one (21);
- (ii) The institution determines that the student has committed a disciplinary violation with respect to such use or possession; and
- (iii) The final determination that the student committed such a disciplinary violation was reached on or after October 7, 1998.

(G) Notwithstanding subdivision (a)(4)(A), § 37-5-107 or § 37-1-612, the institution shall release records to the parent or guardian of a victim or alleged victim of child abuse or child sexual abuse pursuant to § 37-1-403(i)(2) or § 37-1-605(d)(2). Any person or entity that is provided access to records under this subdivision (a)(4)(G) shall be required to maintain the records in accordance with state and federal laws and regulations regarding confidentiality.

(5)(A) The following books, records and other materials in the possession of the office of the attorney general and reporter which relate to any pending or contemplated legal or administrative proceeding in which the office of the attorney general and reporter may be involved shall not be open for public inspection:

- (i) Books, records or other materials which are confidential or privileged by state law;

(ii) Books, records or other materials relating to investigations conducted by federal law enforcement or federal regulatory agencies, which are confidential or privileged under federal law;

(iii) The work product of the attorney general and reporter or any attorney working under the attorney general and reporter's supervision and control;

(iv) Communications made to or by the attorney general and reporter or any attorney working under the attorney general and reporter's supervision and control in the context of the attorney-client relationship; or

(v) Books, records and other materials in the possession of other departments and agencies which are available for public inspection and copying pursuant to §§ 10-7-503 and 10-7-506. It is the intent of this section to leave subject to public inspection and copying pursuant to §§ 10-7-503 and 10-7-506 such books, records and other materials in the possession of other departments even though copies of the same books, records and other materials which are also in the possession of the office of the attorney general and reporter are not subject to inspection or copying in the office of the attorney general and reporter; provided, that such records, books and materials are available for copying and inspection in such other departments.

(B) Books, records and other materials made confidential by this subsection (a) which are in the possession of the office of the attorney general and reporter shall be open to inspection by the elected members of the general assembly, if such inspection is directed by a duly adopted resolution of either house or of a standing or joint committee of either house and is required for the conduct of legislative business.

(C) Except for the provisions of subdivision (a)(5)(B), the books, records and materials made confidential or privileged by this subdivision (a)(5) shall be disclosed to the public only in the discharge of the duties of the office of the attorney general and reporter.

(6) State agency records containing opinions of value of real and personal property intended to be acquired for a public purpose shall not be open for public inspection until the acquisition thereof has been finalized. This shall not prohibit any party to a condemnation action from making discovery relative to values pursuant to the Rules of Civil Procedure as prescribed by law.

(7) Proposals received pursuant to personal service, professional service, and consultant service contract regulations, and related records, including evaluations and memoranda, shall be available for public inspection only after the completion of evaluation of same by the state. Sealed bids for the purchase of goods and services, and leases of real property, and individual purchase records, including evaluations and memoranda relating to same, shall be available for public inspection only after the completion of evaluation of same by the state.

(8) All investigative records and reports of the internal affairs division of the department of correction or of the department of children's services shall be treated as confidential and shall not be open to inspection by members of the public. However, an employee of the department of correction or of the department of children's services shall be allowed to inspect such investigative records and reports if the records or reports form the basis of an adverse action against the employee. An employee of the department of correction shall also be allowed to inspect such investigative records of the internal affairs division of the department of correction, or relevant portion thereof, prior to a due process hearing at which disciplinary action is considered or issued unless the commissioner of the department of correction specifically denies in writing the employee's request to examine such records prior to the hearing. The release of reports and records shall be in accordance with the Tennessee Rules of Civil Procedure. The court or administrative judge having jurisdiction over the proceedings shall issue appropriate protective orders, when necessary, to ensure that the information is disclosed only to appropriate persons. The information contained in such records and reports shall be disclosed to the public only in compliance with a subpoena or an order of a court of record.

(9) (A) Official health certificates, collected and maintained by the state veterinarian pursuant to rule chapter 0080-2-1 of the department of agriculture, shall be treated as confidential and shall not be open for inspection by members of the public.

(B) Any data or records provided to or collected by the department of agriculture pursuant to the implementation and operation of premise identification or animal tracking programs shall be considered confidential and shall not be open for inspection by members of the public. Likewise, all contingency plans prepared concerning the department's response to agriculture-related homeland security events shall be considered confidential and shall not be open for inspection by members of the public. The department may disclose data or contingency plans to aid the law enforcement process or to protect human or animal health.

(C) Information received by the state that is required by federal law or regulation to be kept confidential shall be exempt from public disclosure and shall not be open for inspection by members of the public.

(10)(A) The capital plans, marketing information, proprietary information and trade secrets submitted to the Tennessee venture capital network at Middle Tennessee State University shall be treated as confidential and shall not be open for inspection by members of the public.

(B) As used in this subdivision (a)(10), unless the context otherwise requires:

(i) "Capital plans" means plans, feasibility studies, and similar research and information that will contribute to the identification of future business sites and capital investments;

(ii) "Marketing information" means marketing studies, marketing analyses, and similar research and information designed to identify potential customers and business relationships;

(iii) "Proprietary information" means commercial or financial information which is used either directly or indirectly in the business of any person or company submitting information to the Tennessee venture capital network at Middle Tennessee State University, and which gives such person an advantage or an opportunity to obtain an advantage over competitors who do not know or use such information;

(iv) "Trade secrets" means manufacturing processes, materials used therein, and costs associated with the manufacturing process of a person or company submitting information to the Tennessee venture capital network at Middle Tennessee State University.

(11) Records that are of historical research value which are given or sold to public archival institutions, public libraries, or libraries of a unit of the Tennessee board of regents or the University of Tennessee, when the owner or donor of such records wishes to place restrictions on access to the records shall be treated as confidential and shall not be open for inspection by members of the public. This exemption shall not apply to any records prepared or received in the course of the operation of state or local governments.

(12) Personal information contained in motor vehicle records shall be treated as confidential and shall only be open for inspection in accordance with the provisions of title 55, chapter 25.

(13)(A) All memoranda, work notes or products, case files and communications related to mental health intervention techniques conducted by mental health professionals in a group setting to provide job-related critical incident counseling and therapy to law enforcement officers, county and municipal correctional officers, dispatchers, emergency medical technicians, emergency medical technician-paramedics, and firefighters, both volunteer and professional, are confidential and privileged and are not subject to disclosure in any judicial or administrative proceeding unless all parties waive such privilege. In order for such privilege to apply, the incident counseling and/or therapy shall be conducted by a qualified mental health professional as defined in § 33-1-101(18);

(B) For the purposes of this section, "group setting" means that more than one (1) person is present with the mental health professional when the incident counseling and/or therapy is being conducted;

(C) All memoranda, work notes or products, case files and communications pursuant to this section shall not be construed to be public records pursuant to this chapter.

(D) Nothing in this section shall be construed as limiting a licensed professional's obligation to report suspected child abuse or limiting such professional's duty to warn about dangerous individuals as provided under §§ 33-3-206 -- 33-3-209, or other provisions relevant to the mental health professional's license;

(E) Nothing in this section shall be construed as limiting the ability of a patient or client, or such person's survivor, to discover under the Rules of Civil Procedure or to admit in evidence under the Rules of Evidence any memoranda, work notes or products, case files and communications which are privileged by this section and which are relevant to a malpractice action or any other action by a patient against a mental health professional arising out of the professional relationship. In such an action against a mental health professional, neither shall anything in this section be construed as limiting the ability of the mental health professional to so discover or admit in evidence such memoranda, work notes or products, case files and communications.

(14) All riot, escape and emergency transport plans which are incorporated in a policy and procedures manual of county jails and workhouses or prisons operated by the department of correction or under private contract shall be treated as confidential and shall not be open for inspection by members of the public.

(15)(A) As used in this subdivision (a)(15), unless the context otherwise requires:

(i) "Identifying information" means the home and work addresses and telephone numbers, social security number, and any other information that could reasonably be used to locate the whereabouts of an individual;

(ii) "Protection document" means:

(a) An order of protection issued pursuant to title 36, chapter 3, part 6, that has been granted after proper notice and an opportunity to be heard;

(b) A similar order of protection issued by the court of another jurisdiction;

(c) An extension of an ex parte order of protection granted pursuant to § 36-3-605(a);

(d) A similar extension of an ex parte order of protection granted by a court of competent jurisdiction in another jurisdiction;

(e) A restraining order issued by a court of competent jurisdiction prohibiting violence against the person to whom it is issued;

(f) A court order protecting the confidentiality of certain information issued upon the request of a district attorney general to a victim or witness in a criminal case, whether pending or completed; and

(g) An affidavit from the director of a rape crisis center or domestic violence shelter certifying that an individual is a victim in need of protection; provided, that such affidavit is on a standardized form to be developed and distributed to such centers and shelters by the Tennessee task force against domestic violence; and

(iii) "Utility service provider" means any entity, whether public or private, that provides electricity, natural gas, water, or telephone service to customers on a subscription basis, whether or not regulated by the Tennessee regulatory authority.

(B) If the procedure set out in this subdivision (a)(15) is followed, identifying information compiled and maintained by a utility service provider concerning a person who has obtained a valid protection document shall be treated as confidential and not open for inspection by the public.

(C) For the provisions of subdivision (a)(15)(B) to be applicable, a copy of the protection document must be presented during regular business hours by the person to whom it was granted to the records custodian of the

utility service provider whose records such person seeks to make confidential, and such person must request that all identifying information about such person be maintained as confidential.

(D) The protection document must at the time of presentation be in full force and effect. The records custodian may assume that a protection document is in full force and effect if it is on the proper form and if on its face it has not expired.

(E) Upon being presented with a valid protection document, the records custodian shall accept receipt of it and maintain it in a separate file containing in alphabetical order all protection documents presented to such records custodian pursuant to this subdivision (a)(15). Nothing in this subdivision (a)(15) shall be construed as prohibiting a records custodian from maintaining an electronic file of such protection documents provided the records custodian retains the original document presented.

(F) Identifying information concerning a person that is maintained as confidential pursuant to this subdivision (a)(15) shall remain confidential until the person who requested such confidentiality notifies in person the records custodian of the appropriate utility service provider that there is no longer a need for such information to remain confidential. A records custodian receiving such notification shall remove the protection document concerning such person from the file maintained pursuant to subdivision (a)(15)(E), and the identifying information about such person shall be treated in the same manner as the identifying information concerning any other customer of the utility. Before removing the protection document and releasing any identifying information, the records custodian of the utility service provider shall require that the person requesting release of the identifying information maintained as confidential produce sufficient identification to satisfy such custodian that he or she is the same person as the person to whom the document was originally granted.

(G) After July 1, 1999, if information is requested from a utility service provider about a person other than the requestor and such request is for information that is in whole or in part identifying information, the records custodian of the utility service provider shall check the separate file containing all protection documents that have been presented to such utility. If the person about whom information is being requested has presented a valid protection document to the records custodian in accordance with the procedure set out in this subdivision (a)(15), and has requested that identifying information about such person be maintained as confidential, the records custodian shall redact or refuse to disclose to the requestor any identifying information about such person.

(H) Nothing in this subdivision (a)(15) shall prevent the district attorney general and counsel for the defendant from providing to each other in a pending criminal case, where the constitutional rights of the defendant require it, information which otherwise would be held confidential under this subdivision (a)(15).

(16)(A) As used in this subdivision (a)(16), unless the context otherwise requires:

(i) "Governmental entity" means the state of Tennessee and any county, municipality, city or other political subdivision of the state of Tennessee;

(ii) "Identifying information" means the home and work addresses and telephone numbers, social security number, and any other information that could reasonably be used to locate the whereabouts of an individual;

(iii) "Protection document" means:

(a) An order of protection issued pursuant to title 36, chapter 3, part 6, that has been granted after proper notice and an opportunity to be heard;

(b) A similar order of protection issued by the court of another jurisdiction;

(c) An extension of an ex parte order of protection granted pursuant to § 36-3-605(a);

(d) A similar extension of an ex parte order of protection granted by a court of competent jurisdiction in another jurisdiction;

(e) A restraining order issued by a court of competent jurisdiction prohibiting violence against the person to whom it is issued;

(f) A court order protecting the confidentiality of certain information issued upon the request of a district attorney general to a victim or witness in a criminal case, whether pending or completed; and

(g) An affidavit from the director of a rape crisis center or domestic violence shelter certifying that an individual is a victim in need of protection; provided, that such affidavit is on a standardized form to be developed and distributed to such centers and shelters by the Tennessee task force against domestic violence.

(B) If the procedure set out in this subdivision (a)(16) is followed, identifying information compiled and maintained by a governmental entity concerning a person who has obtained a valid protection document may be treated as confidential and may not be open for inspection by the public.

(C) For the provisions of subdivision (a)(16)(B) to be applicable, a copy of the protection document must be presented during regular business hours by the person to whom it was granted to the records custodian of the governmental entity whose records such person seeks to make confidential, and such person must request that all identifying information about such person be maintained as confidential.

(D) The protection document presented must at the time of presentation be in full force and effect. The records custodian may assume that a protection document is in full force and effect if it is on the proper form and if on its face it has not expired.

(E) Upon being presented with a valid protection document, the record custodian may accept receipt of it. If the records custodian does not accept receipt of such document, the records custodian shall explain to the person presenting the document why receipt cannot be accepted and that the identifying information concerning such person will not be maintained as confidential. If the records custodian does accept receipt of the protection document, such records custodian shall maintain it in a separate file containing in alphabetical order all protection documents presented to such custodian pursuant to this subdivision (a)(16). Nothing in this subdivision (a)(16) shall be construed as prohibiting a records custodian from maintaining an electronic file of such protection documents; provided, that the custodian retains the original document presented.

(F) Identifying information concerning a person that is maintained as confidential pursuant to this subdivision (a)(16) shall remain confidential until the person requesting such confidentiality notifies in person the appropriate records custodian of the governmental entity that there is no longer a need for such information to remain confidential. A records custodian receiving such notification shall remove the protection document concerning such person from the file maintained pursuant to subdivision (a)(16)(E), and the identifying information about such person shall be treated in the same manner as identifying information maintained by the governmental entity about other persons. Before removing the protection document and releasing any identifying information, the records custodian of the governmental entity shall require that the person requesting release of the identifying information maintained as confidential produce sufficient identification to satisfy such records custodian that that person is the same person as the person to whom the document was originally granted.

(G) After July 1, 1999, if:

(i) Information is requested from a governmental entity about a person other than the person making the request;

(ii) Such request is for information that is in whole or in part identifying information; and

(iii) The records custodian of the governmental entity to whom the request was made accepts receipt of protection documents and maintains identifying information as confidential;

then such records custodian shall check the separate file containing all protection documents that have been presented to such entity. If the person about whom information is being requested has presented a valid protection document to the records custodian in accordance with the procedure set out in this subdivision (a)(16), and has requested that identifying information about such person be maintained as confidential, the records custodian shall redact or refuse to disclose to the requestor any identifying information about such person.

(H) Nothing in this subdivision (a)(16) shall prevent the district attorney general and counsel for the defendant from providing to each other in a pending criminal case, where the constitutional rights of the defendant require it, information which otherwise may be held confidential under this subdivision (a)(16).

(I) In an order of protection case, any document required for filing, other than the forms promulgated by the supreme court pursuant to § 36-3-604(b), shall be treated as confidential and kept under seal except that the clerk may transmit any such document to the Tennessee bureau of investigation, 911 service or emergency response agency or other law enforcement agency.

(17) The telephone number, address and any other information which could be used to locate the whereabouts of a domestic violence shelter or rape crisis center may be treated as confidential by a governmental entity, and shall be treated as confidential by a utility service provider as defined in subdivision (a)(15) upon the director of the shelter or crisis center giving written notice to the records custodian of the appropriate entity or utility that such shelter or crisis center desires that such identifying information be maintained as confidential.

(18) Computer programs, software, software manuals, and other types of information manufactured or marketed by persons or entities under legal right and sold, licensed, or donated to Tennessee state boards, agencies, or higher education institutions shall not be open to public inspection; provided, that computer programs, software, software manuals, and other types of information produced by state or higher education employees at state expense shall be available for inspection as part of an audit or legislative review process.

(19) The credit card numbers of persons doing business with the state or political subdivision thereof and any related personal identification numbers (PIN) or authorization codes are confidential and shall not be open for inspection by members of the public, whether this information is received by the state or political subdivision thereof through electronic means or paper transactions.

(20)(A) For the purposes of this subdivision (a)(20), the following terms shall have the following meaning:

(i) "Consumer" means any person, partnership, limited partnership, corporation, professional corporation, limited liability company, trust, or any other entity, or any user of a utility service;

(ii) "Municipal" and "municipality" means a county, metropolitan government, incorporated city, town of the state, or utility district as created in title 7, chapter 82;

(iii) "Private records" means a credit card number, social security number, tax identification number, financial institution account number, burglar alarm codes, security codes, and access codes; and

(iv) "Utility" shall include any public electric generation system, electric distribution system, water storage or processing system, water distribution system, gas storage system or facilities related thereto, gas distribution system, wastewater system, telecommunications system, or any services similar to any of the foregoing.

(B) The private records of any utility shall be treated as confidential and shall not be open for inspection by members of the public.

(C) Information made confidential by this subsection (a) shall be redacted wherever possible and nothing in this subsection (a) shall be used to limit or deny access to otherwise public information because a file, document, or data file contains confidential information. For purposes of this section only, it shall be presumed that redaction of such information is possible. The entity requesting the records shall pay all reasonable costs associated with redaction of materials.

(D) Nothing in this subsection (a) shall be construed to limit access to these records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(E) Nothing in this subsection (a) shall be construed to limit access to information made confidential under this subsection (a), when the consumer expressly authorizes the release of such information.

(21)(A) The following records shall be treated as confidential and shall not be open for public inspection:

(i) Records that would allow a person to identify areas of structural or operational vulnerability of a utility service provider or that would permit unlawful disruption to, or interference with, the services provided by a utility service provider;

(ii) All contingency plans of a governmental entity prepared to respond to or prevent any violent incident, bomb threat, ongoing act of violence at a school or business, ongoing act of violence at a place of public gathering, threat involving a weapon of mass destruction, or terrorist incident.

(B) Documents concerning the cost of governmental utility property, the cost of protecting governmental utility property, the cost of identifying areas of structural or operational vulnerability of a governmental utility, the cost of developing contingency plans for a governmental entity, and the identity of vendors providing goods or services to a governmental entity in connection with the foregoing shall not be confidential. However, any documents relating to these subjects shall not be made available to the public unless information that is confidential under this subsection (a) or any other provision of this chapter has been redacted or deleted from the documents.

(C) As used in this subdivision (a)(21):

(i) "Governmental entity" means the state of Tennessee or any county, municipality, city or other political subdivision of the state of Tennessee;

(ii) "Governmental utility" means a utility service provider that is also a governmental entity; and

(iii) "Utility service provider" means any entity, whether public or private, that provides electric, gas, water, sewer or telephone service, or any combination of the foregoing, to citizens of the state of Tennessee, whether or not regulated by the Tennessee regulatory authority.

(D) Nothing in this subdivision (a)(21) shall be construed to limit access to these records by other governmental agencies performing official functions or to preclude any governmental agency from allowing public access to these records in the course of performing official functions.

(b) Any record designated "confidential" shall be so treated by agencies in the maintenance, storage and disposition of such confidential records. These records shall be destroyed in such a manner that they cannot be read, interpreted or reconstructed. The destruction shall be in accordance with an approved records disposition authorization from the public records commission.

(c) Notwithstanding any provision of the law to the contrary, any confidential public record in existence more than seventy (70) years shall be open for public inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law or unless the record is a record of services for a person for mental illness or mental retardation. The provisions of this section do not apply to a record concerning an adoption or a record maintained by the office of vital records or by the Tennessee bureau of investigation. For the purpose of providing

an orderly schedule of availability for access to such confidential public records for public inspection, all records created and designated as confidential prior to January 1, 1901, shall be open for public inspection on January 1, 1985. All other public records created and designated as confidential after January 1, 1901 and which are seventy (70) years old on January 1, 1985, shall be open for public inspection on January 1, 1986; thereafter all such records shall be open for public inspection pursuant to this part after seventy (70) years from the creation date of such records.

(d) Records of any employee's identity, diagnosis, treatment, or referral for treatment that are maintained by any state or local government employee assistance program shall be confidential; provided, that any such records are maintained separately from personnel and other records regarding such employee that are open for inspection. For purposes of this subsection (d), "employee assistance program" means any program that provides counseling, problem identification, intervention, assessment, or referral for appropriate diagnosis and treatment, and follow-up services to assist employees of such state or local governmental entity who are impaired by personal concerns including, but not limited to, health, marital, family, financial, alcohol, drug, legal, emotional, stress or other personal concerns which may adversely affect employee job performance.

(e) Unpublished telephone numbers in the possession of emergency communications districts created pursuant to title 7, chapter 86, shall be treated as confidential and shall not be open for inspection by members of the public until such time as any provision of the service contract between the telephone service provider and the consumer providing otherwise is effectuated; provided, that addresses held with such unpublished telephone numbers, or addresses otherwise collected or compiled, and in the possession of emergency communications districts created pursuant to title 7, chapter 86, shall be made available upon written request to any county election commission for the purpose of compiling a voter mailing list for a respective county.

(f)(1) The following records or information of any state, county, municipal or other public employee or former employee, or of any law enforcement officer commissioned pursuant to § 49-7-118, in the possession of a governmental entity or any person in its capacity as an employer shall be treated as confidential and shall not be open for inspection by members of the public:

(A) Home telephone and personal cell phone numbers;

(B) Bank account and individual health savings account, retirement account, and pension account information, provided that nothing shall limit access to financial records of a governmental employer that show the amounts and sources of contributions to such accounts or the amount of pension or retirement benefits provided to the employee or former employee by the governmental employer;

(C) Social security number;

(D)(i) Residential information, including the street address, city, state and zip code, for any state employee; and

(ii) Residential street address for any county, municipal or other public employee;

(E) Driver license information except where driving or operating a vehicle is part of the employee's job description or job duties or incidental to the performance of the employee's job; and

(F) The information listed in subdivisions (f)(1)(A)- (E) of immediate family members or household members.

(2) Information made confidential by this subsection (f) shall be redacted wherever possible and nothing in this subsection (f) shall be used to limit or deny access to otherwise public information because a file, a document, or data file contains confidential information.

(3) Nothing in this subsection (f) shall be construed to limit access to these records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(4) Nothing in this subsection (f) shall be construed to close any personnel records of public officers which are currently open under state law.

(5) Nothing in this subsection (f) shall be construed to limit access to information made confidential under this subsection (f), when the employee expressly authorizes the release of such information.

(g)(1)(A)(i) All law enforcement personnel information in the possession of any entity or agency in its capacity as

an employer, including officers commissioned pursuant to § 49-7-118, shall be open for inspection as provided in § 10-7-503(a), except personal information shall be redacted where there is a reason not to disclose as determined by the chief law enforcement officer or the chief law enforcement officer's designee.

(ii) When a request to inspect includes personal information and the request is for a professional, business, or official purpose, the chief law enforcement officer or custodian shall consider the specific circumstances to determine whether there is a reason not to disclose and shall release all information, except information made confidential in § 10-7-504(f), if there is not such a reason. In all other circumstances, the officer shall be notified prior to disclosure of the personal information and shall be given a reasonable opportunity to be heard and oppose the release of the information. Nothing in this subdivision (g)(1) shall be construed to limit the requestor's right to judicial review set out in § 10-7-505.

(iii) The chief law enforcement officer shall reserve the right to segregate information that could be used to identify or to locate an officer designated as working undercover.

(B) In addition to the requirements of § 10-7-503(c), the request for a professional, business, or official purpose shall include the person's business address, business telephone number and email address. The request may be made on official or business letterhead and the person making the request shall provide the name and contact number or email address for a supervisor for verification purposes.

(C) If the chief law enforcement official, the chief law enforcement official's designee, or the custodian of the information decides to withhold personal information, a specific reason shall be given to the requestor in writing within two (2) business days, and the file shall be released with the personal information redacted.

(D) For purposes of this subsection (g), personal information shall include the officer's residential address, home and personal cellular telephone number; place of employment; name, work address and telephone numbers of the officer's immediate family; name, location, and telephone number of any educational institution or daycare provider where the officer's spouse or child is enrolled.

(2) Nothing in this subsection (g) shall be used to limit or deny access to otherwise public information because a file, a document, or data file contains some information made confidential by subdivision (g)(1).

(3) Nothing in this subsection (g) shall be construed to limit access to these records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(4) Except as provided in subdivision (g)(1), nothing in this subsection (g) shall be construed to close personnel records of public officers, which are currently open under state law.

(5) Nothing in this subsection (g) shall be construed to limit access to information made confidential by subdivision (g)(1), when the employee expressly authorizes the release of such information.

(h)(1) Notwithstanding any other law to the contrary, those parts of the record identifying an individual as a person who has been or may in the future be directly involved in the process of executing a sentence of death shall be treated as confidential and shall not be open to public inspection. For the purposes of this section "person" includes, but is not limited to, an employee of the state who has training related to direct involvement in the process of executing a sentence of death, a contractor or employee of a contractor, or a volunteer who has direct involvement in the process of executing a sentence of death. Records made confidential by this section include, but are not limited to, records related to remuneration to a person in connection with such person's participation in or preparation for the execution of a sentence of death. Such payments shall be made in accordance with a memorandum of understanding between the commissioner of correction and the commissioner of finance and administration in a manner that will protect the public identity of the recipients; provided, if a contractor is employed to participate in or prepare for the execution of a sentence of death, the amount of the special payment made to such contractor pursuant to the contract shall be reported by the commissioner of correction to the comptroller of the treasury and such amount shall be a public record.

(2) Information made confidential by this subsection (h) shall be redacted wherever possible and nothing in this

subsection (h) shall be used to limit or deny access to otherwise public information because a file, a document, or data file contains confidential information.

(i)(1) Information that would allow a person to obtain unauthorized access to confidential information or to government property shall be maintained as confidential. For the purpose of this section, "government property" includes electronic information processing systems, telecommunication systems, or other communications systems of a governmental entity subject to this chapter. For the purpose of this section, "governmental entity" means the state of Tennessee and any county, municipality, city or other political subdivision of the state of Tennessee. Such records include:

(A) Plans, security codes, passwords, combinations, or computer programs used to protect electronic information and government property;

(B) Information that would identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, the services provided by a governmental entity; and

(C) Information that could be used to disrupt, interfere with, or gain unauthorized access to electronic information or government property.

(2) Information made confidential by this subsection (i) shall be redacted wherever possible and nothing in this subsection (i) shall be used to limit or deny access to otherwise public information because a file, document, or data file contains confidential information.

(3) Documents concerning the cost of protecting government property or electronic information, and the identity of vendors providing goods and services used to protect government property or electronic information shall not be confidential.

(j) The following information regarding victims who apply for compensation under the Criminal Injuries Compensation Act shall be treated as confidential and shall not be open for inspection by members of the public:

(1) Residential information, including the street address, city, state and zip code;

(2) Home telephone and personal cell phone numbers;

(3) Social security number; and

(4) Criminal offense from which the victim is receiving compensation.

(k)(1) All applications, certificates, records, reports, legal documents and petitions made or information received pursuant to Title 37 that directly or indirectly identify a child or family receiving services from the Department of Children's Services or that identify the person who made a report of harm pursuant to §§ 37-1-403 or 37-1-605 shall be confidential and shall not be open for public inspection, except as provided by §§ 37-1-131, 37-1-409, 37-1-612, 37-5-107 and 49-6-3051.

(2) The information made confidential pursuant to subdivision (k)(1) includes information contained in applications, certifications, records, reports, legal documents and petitions in the possession of not only the Department of Children's Services but any state or local agency, including, but not limited to, law enforcement and the Department of Education.

(l)(1) Information and records that are directly related to the security of any government building shall be maintained as confidential and shall not be open to public inspection. For purposes of this subsection (l), "government building" means any building that is owned, leased, or controlled, in whole or in part, by the state of Tennessee or any county, municipality, city or other political subdivision of the state of Tennessee. Such information and records include, but are not limited to:

(A) Information and records about alarm and security systems used at the government building including

codes, passwords, wiring diagrams, plans and security procedures and protocols related to the security systems;

(B) Security plans, including security-related contingency planning and emergency response plans;

(C) Assessments of security vulnerability;

(D) Information and records that would identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, the services provided by a governmental entity; and

(E) Surveillance recordings, whether recorded to audio or visual format, or both, except segments of such recordings may be made public when they include an act or incident involving public safety or security or possible criminal activity. In addition, if such recordings are relevant to a civil action or criminal prosecution, then the recordings may be released in compliance with a subpoena or an order of a court of record in accordance with the Tennessee Rules of Civil or Criminal Procedure. The court or administrative judge having jurisdiction over the proceedings shall issue appropriate protective orders, when necessary, to ensure that the information is disclosed only to appropriate persons. Release of any segment or segments of such recordings shall not be construed as waiving the confidentiality of the remaining segments of the audio or visual tape.

(2) Information made confidential by this subsection (l) shall be redacted wherever possible and nothing in this subsection (l) shall be used to limit or deny access to otherwise public information because a file or document contains confidential information.

(m)(1) Notwithstanding any other law to the contrary, identifying information compiled and maintained by the department of correction and the department of probation and parole concerning any person shall be confidential when such person has been notified or requested that notification be provided to such person regarding the status of criminal proceedings or of a convicted felon incarcerated in a department of correction institution, county jail, or workhouse, or under state supervised probation or parole pursuant to §§ 40-28-505, 40-38-103, 40-38-110, 40-38-111, 41-21-240, 41-21-242.

(2) For purposes of this subsection (m), “identifying information” means the name, home and work addresses, telephone numbers, and social security number of the person being notified or requesting that notification be provided.

HISTORY: Acts 1957, ch. 285, § 2; 1970, ch. 531, §§ 1, 2; 1973, ch. 99, § 1; 1975, ch. 127, § 1; 1976, ch. 552, § 1; 1976, ch. 777, § 1; 1977, ch. 152, § 3; 1978, ch. 544, § 1; 1978, ch. 890, § 2; T.C.A., § 15-305; Acts 1983, ch. 211, § 1; 1984, ch. 947, § 2; 1985, ch. 421, §§ 1-4; 1985 (1st E.S.), ch. 5, § 29; 1987, ch. 118, § 2; 1987, ch. 337, § 20; 1988, ch. 783, § 1; 1988, ch. 894, § 2; 1989, ch. 75, § 1; 1989, ch. 278, § 27; 1990, ch. 888, § 1; 1991, ch. 129, § 1; 1992, ch. 823, § 1; 1996, ch. 724, § 1; 1996, ch. 745, § 16; 1996, ch. 1079, § 29; 1997, ch. 84, § 1; 1997, ch. 290, § 1; 1997, ch. 292, § 1; 1998, ch. 1075, § 1; 1999, ch. 176, §§ 1, 2; 1999, ch. 199, § 1; 1999, ch. 344, §§ 1, 2, 4; 1999, ch. 514, § 2; 2000, ch. 562, § 1; 2000, ch. 783, § 10; 2001, ch. 259, §§ 1, 2; 2002, ch. 730, § 53; 2002, ch. 769, § 1; 2002, ch. 819, § 1; 2002, ch. 849, § 12; 2003, ch. 105, § 1; 2003, ch. 201, § 1; 2003, ch. 295, § 1; 2004, ch. 434, § 1; 2004, ch. 673, § 21; 2005, ch. 47, § 1; 2005, ch. 474, § 6; 2006, ch. 665, § 1; 2007, ch. 178, § 1; 2007, ch. 425, §§ 2,3; 2008, ch. 853, §§ 2,3; 2008, ch. 1011, § 3; 2009, ch. 176, § 1; 2009, ch.310, §§ 1,2; 2009, ch. 328, § 1; 2009, ch.358, § 1; 2009, ch. 368, § 5; 2009, ch.567, § 1.

§ 10-7-505. Denial of access -- Procedures for obtaining access -- Court orders -- Injunctions -- Appeals -- Liability for nondisclosure

(a) Any citizen of Tennessee who shall request the right of personal inspection of any state, county or municipal record as provided in § 10-7-503, and whose request has been in whole or in part denied by the official and/or designee of the official or through any act or regulation of any official or designee of any official, shall be entitled to petition for access to any such record and to obtain judicial review of the actions taken to deny the access.

(b) Such petition shall be filed in the chancery court or circuit court for the county in which the county or municipal records sought are situated, or in any other court of that county having equity jurisdiction. In the case of records in the custody and control of any state department, agency or instrumentality, such petition shall be filed in the chancery court or circuit court of Davidson County; or in the chancery court for the county in which the state records are situated if different from Davidson County, or in any other court of that county having equity jurisdiction; or in the chancery court or circuit court in the county of the petitioner's residence, or in any other court of that county having equity jurisdiction. Upon filing of the petition, the court shall, upon request of the petitioning party, issue an order requiring the defendant or respondent party or parties to immediately appear and show cause, if they have any, why the petition should not be granted. A formal written response to the petition shall not be required, and the generally applicable periods of filing such response shall not apply in the interest of expeditious hearings. The court may direct that the records being sought be submitted under seal for review by the court and no other party. The decision of the court on the petition shall constitute a final judgment on the merits.

(c) The burden of proof for justification of nondisclosure of records sought shall be upon the official and/or designee of the official of those records and the justification for the nondisclosure must be shown by a preponderance of the evidence.

(d) The court, in ruling upon the petition of any party proceeding hereunder, shall render written findings of fact and conclusions of law and shall be empowered to exercise full injunctive remedies and relief to secure the purposes and intentions of this section, and this section shall be broadly construed so as to give the fullest possible public access to public records.

(e) Upon a judgment in favor of the petitioner, the court shall order that the records be made available to the petitioner unless:

(1) There is a timely filing of a notice of appeal; and

(2) The court certifies that there exists a substantial legal issue with respect to the disclosure of the documents which ought to be resolved by the appellate courts.

(f) Any public official required to produce records pursuant to this part shall not be found criminally or civilly liable for the release of such records, nor shall a public official required to release records in such public official's custody or under such public official's control be found responsible for any damages caused, directly or indirectly, by the release of such information.

(g) If the court finds that the governmental entity, or agent thereof, refusing to disclose a record, knew that such record was public and willfully refused to disclose it, such court may, in its discretion, assess all reasonable costs involved in obtaining the record, including reasonable attorneys' fees, against the nondisclosing governmental entity. In determining whether the action was willful, the court may consider any guidance provided to the records custodian by the office of open records counsel as created in title 8, chapter 4.

HISTORY: Acts 1957, ch. 285, § 3; 1975, ch. 127, § 2; 1977, ch. 152, § 4; T.C.A., § 15-306; Acts 1984, ch. 929, §§ 2, 4; 1985, ch. 342, § 1; 1988, ch. 888, § 1; 2008, ch. 1179, §§ 2-4.

§ 10-7-506. Public records having commercial value

(a) In all cases where any person has the right to inspect any such public records, such person shall have the right to take extracts or make copies thereof, and to make photographs or photostats of the same while such records are in the possession, custody and control of the lawful custodian thereof or such custodian's authorized deputy; provided, that the lawful custodian of such records shall have the right to adopt and enforce reasonable rules governing the making of such extracts, copies, photographs or photostats.

(b) Within ten (10) days of the release of public records originating in the office of the county assessor of property, the state agency releasing such records shall notify, in writing, the assessor of property of the county in which such records originated of the records released and the name and address of the person or firm receiving the records. The

reporting requirements of this subsection shall not apply when county or city summary assessment information is released.

(c)(1) If a request is made for a copy of a public record that has commercial value, and such request requires the reproduction of all or a portion of a computer generated map or other similar geographic data that was developed with public funds, a state department or agency or a political subdivision of the state having primary responsibility for the data or system may establish and impose reasonable fees for the reproduction of such record, in addition to any fees or charges that may lawfully be imposed pursuant to this section. The additional fees authorized by this subsection may not be assessed against individuals who request copies of records for themselves or when the record requested does not have commercial value. State departments and agencies and political subdivisions of the state may charge a reasonable fee (cost of reproduction only) for information requested by the news media for news gathering purposes (broadcast or publication).

(2) The additional fees authorized by this subsection shall relate to the actual development costs of such maps or geographic data and may include:

(A) Labor costs;

(B) Costs incurred in design, development, testing, implementation and training; and

(C) Costs necessary to ensure that the map or data is accurate, complete and current, including the cost of adding to, updating, modifying and deleting information.

(3) The development cost recovery set forth above shall be limited to not more than ten percent (10%) of the total development costs unless additional development cost recovery between ten percent (10%) and twenty percent (20%) is approved by the following procedures: For state departments and agencies, the information systems council (ISC) shall review a proposed business plan explaining the need for the additional development cost recovery. If the ISC approves additional development cost recovery, such recovery shall be submitted to the general assembly for approval. For political subdivisions of the state, approval for additional development cost recovery as contained in a proposed business plan must be obtained from the governing legislative body. If the governing legislative body approves additional development cost recovery, such recovery shall be submitted to the ISC for approval. The development costs of any system being recovered with fees authorized by this section shall be subject to audit by the comptroller of the treasury, it being the legislative intent that once such additional fees have paid the portion of the development costs authorized above, such fees shall be adjusted to generate only the amount necessary to maintain the data and ensure that it is accurate, complete and current for the life of the particular system. Notwithstanding the limitations above, the recovery of maintenance costs shall not be subject to the limitations and procedures provided above for the recovery of development costs.

(4) As used in this subsection, "record that has commercial value" means a record requested for any purpose other than:

(A) A non-business use by an individual; and

(B) A news gathering use by the news media.

(5) [Deleted by 2000 amendment.]

HISTORY: Acts 1957, ch. 285, § 4; T.C.A., § 15-307; Acts 1986, ch. 546, § 1; 1991, ch. 433, § 1; 1992, ch. 682, § 1; 1997, ch. 97, § 1; 2000, ch. 868, §§ 1-5.

§ 10-7-507. Records of convictions of traffic and other violations -- Availability

Any public official having charge or custody of or control over any public records of convictions of traffic violations or any other state, county or municipal public offenses shall make available to any citizen, upon request, during regular office hours, a copy or copies of any such record requested by such citizen, upon the payment of a

reasonable charge or fee therefor. Such official is authorized to fix a charge or fee per copy that would reasonably defray the cost of producing and delivering such copy or copies.

HISTORY: Acts 1974, ch. 581, § 1; T.C.A., § 15-308.

§ 10-7-508. Access to records -- Records of archival value -- Retention or disposal of records

(a) The director of the records management division, the state librarian and archivist, and the comptroller of the treasury or the comptroller's designated representative for purposes of audit, shall be accorded access to and may examine and receive any public records or writings, whether or not they are subject to public inspection. They shall maintain inviolate any privileged or confidential information so acquired and any record or writing so defined by law.

(b) The state librarian and archivist or an archivist designated by the state librarian and archivist and the director of records management or a records analyst designated by the director of records management shall be accorded access to and may examine any confidential public records for the purpose of determining, in consultation with the agency head or a representative of the agency which has title to the records, whether such records are records of archival value or whether such records are properly filed or designated as confidential. If the state librarian and archivist or such representative, the director of records management or such representative and the agency head or such representative should determine that certain administrative or otherwise open public records have been inappropriately filed and designated as confidential public records, then such records shall be removed from the designation of confidential and filed within the appropriate level of access designation. Such access to appraise the archival value of such confidential records shall be provided for in the scheduling of retention periods through appropriate records disposition authorizations which are reviewed and approved by the public records commission.

(c) Records determined to be of archival value shall be retained as provided in rules and regulations for records management of records of archival value of the public records commission, and those confidential records determined not to be of archival value shall be disposed of by authorized means and in accordance with approved records disposition authorizations.

HISTORY: Acts 1978, ch. 544, § 2; T.C.A., § 15-309; Acts 1984, ch. 947, § 3.

§ 10-7-509. Disposition of records

(a) The disposition of all state records shall occur only through the process of an approved records disposition authorization.

(b) Records authorized for destruction shall be disposed of according to the records disposition authorization and shall not be given to any unauthorized person, transferred to another agency, political subdivision, or private or semiprivate institution.

HISTORY: Acts 1978, ch. 544, § 2; T.C.A., § 15-310.

§ 10-7-510. Transfer of documents from criminal cases to not-for-profit depositories

(a) The district attorney general of a judicial district, after giving written notice of the proposed transfer prior to such transfer to the presiding officer of the legislative body in which such record, document or evidence is located, may permanently transfer custody and ownership of all original records, documents and physical evidence in the district attorney general's possession that was collected, compiled and maintained in a particular criminal case or investigation to a university or other institution of higher education, museum, library or other not-for-profit corporation organized for the primary purpose of preserving and displaying items of historical significance, if:

(1) The university, museum, library or not-for-profit corporation has formally requested transfer of the records, documents and evidence in a particular case or investigation;

(2) The documents, records and evidence requested are, in the opinion of such district attorney general, of historical significance and their display would enhance public understanding, education or appreciation of a particular time or event in history;

(3) The documents, records and evidence requested have by operation of law become public records; and

(4) The district attorney general or clerk duplicates or photographs all documents and records transferred in a manner approved by the public records commission.

(b) If such original records, documents or physical evidence are in the sole custody of the criminal court clerk of any judicial district, such clerk may permanently transfer custody and ownership of such records, documents or physical evidence with the approval of the district attorney general of the appropriate judicial district, after giving written notice of the proposed transfer prior to such transfer to the presiding officer of the legislative body for the jurisdiction in which such record, document or evidence is located.

(c) If it is determined that such documents, records and evidence are to be transferred, the district attorney general shall make the final decision as to the date, time and method by which such transfer is effectuated.

(d) Upon the transfer of such documents, records and evidence as provided by this section, any party desiring to view such material shall do so at the site where the material has been transferred.

(e) As used in this section, "historical significance" means that the event giving rise to the documents, records or evidence being transferred occurred twenty (20) years or more prior to April 18, 1994.

(f) This section does not apply to records or documents which are made confidential by any provision of law.

HISTORY: Acts 1994, ch. 826, § 1.

§ 10-7-511. Preservation of records of permanent value

Responsibility for providing trained staff and appropriate equipment necessary to produce and store microfilm reproductions of official, permanent value bound volume records created by the various county and municipal governments of the state is hereby vested in the state library and archives. To implement this security microfilming program, the state librarian and archivist is authorized to develop a priority listing of essential records based on retention schedules developed by the county technical assistance service and the municipal technical advisory service. This priority listing of essential records may be revised from time to time to accommodate critical needs in individual counties or municipalities or to reflect changes in retention schedules. The camera negative of the microfilmed records shall be stored in the security vault at the state library and archives and duplicate rolls of these microfilmed records shall be made available to county and municipal governments on a cost basis.

HISTORY: Acts 1971, ch. 242, § 1; 1977, ch. 486, § 2; T.C.A., 15-513; Acts 1991, ch. 369, § 5; 1994, ch. 884, § 8; Acts 1999, ch. 167, §§ 5, 6.

§ 10-7-512. Electronic mail communications systems -- Monitoring of electronic mail communications -- Policy required

(a) On or before July 1, 2000, the state or any agency, institution, or political subdivision thereof that operates or maintains an electronic mail communications system shall adopt a written policy on any monitoring of electronic mail communications and the circumstances under which it will be conducted.

(b) The policy shall include a statement that correspondence of the employee in the form of electronic mail may be

a public record under the public records law and may be subject to public inspection under this part.

HISTORY: Acts 1999, ch. 304, § 2.

§ 10-7-513. Request for removal of military discharge or redaction of social security number from military discharge

(a) Any veteran of the United States armed forces, or such veteran's surviving spouse, attorney-in-fact, personal representative or court appointed guardian, may request that a county register of deeds remove from the official records held in such register's office, excepting records preserved on microfilm, any of the following record forms: DD- 214, DD-215, WD AGO 55, WD AGO 53-55, NAVMC 78-PD, NAVPERS 553, or any other military discharge, or alternatively may request that the veteran's social security identification number be redacted from any such military discharge record if such records are stored in a manner that permits redaction.

(b) The request for removal of a military discharge record or redaction of a social security identification number from a military discharge record in the office of the county register of deeds pursuant to subsection (a) shall be made on a paper writing in a form substantially as follows:

REQUEST FOR REMOVAL OF MILITARY DISCHARGE OR REDACTION OF SOCIAL SECURITY NUMBER FROM A MILITARY DISCHARGE

1. Full name of veteran: _____

2. Name of person making request: _____

3. If not the veteran making the request, identify the legal relationship that entitles the person making request to make the request: (check one)

- (a) Surviving spouse _____
- (b) Attorney-in-fact _____
- (c) Personal representative _____
- (d) Court appointed guardian _____

4. Check (a) or (b):

- (a) Request removal of military discharge record _____
- (b) Request redaction of social security identification number on military discharge record (if practicable) _____

5. Type of military discharge record _____

6. Book and page number or other reference identifying where the military discharge record is recorded in the _____ county register's office:
Book No. _____ Page No. _____ or _____ No. _____

7. Signature of person making request: _____

State of Tennessee
County of _____

Personally appeared before me, _____ (person duly authorized to take acknowledgments in [_____] county), the within named _____, with whom I am personally acquainted (or proven to me on the basis of satisfactory evidence) and who acknowledges that such person executed the within instrument for the purpose of making a request of the register of deeds of _____ County, Tennessee, to remove a military discharge record or redact a social security identification number from a military discharge record, excepting microfilm records.

Witness my hand this _____ day of _____, 20__.

(signature of person taking acknowledgement)

[Space for Seal of Office]

(c) The completed request form as provided in subsection (b) is eligible for recording in the office of the county register of deeds where submitted. The register has no duty to inquire beyond the acknowledged request to verify the identity or authority of the person requesting the removal. Upon recording the written request, the county register shall act in accordance with the request to either remove the military discharge record identified in the request from the records of the office, except microfilm records, or redact the social security identification number from a military discharge record recorded in the office of the county register if practicable. If redaction is requested and is not practicable, the county register shall not record the request and shall verbally or by writing explain to the person making the request why redaction is not practicable and state that the person may instead request the removal of the military discharge record from the records of the county register.

HISTORY: Acts 2003, ch. 292, § 1.

§ 10-7-514. Subscription service required to view military discharge record over Internet

A county register shall not cause a military discharge record recorded in the office of the county register to be viewed over the Internet except through a subscription service approved by the county register.

HISTORY: Acts 2003, ch. 292, § 1.

§ 10-7-515. Social security identification numbers on documents --Redaction

(a) The preparer of any document recorded in the office of the county register of deeds shall not place a social security identification number on any document filed or recorded in the office of the county register of deeds, other than a power of attorney. However, the county register shall not refuse to record a document for failure of the preparer to comply with the prohibition contained in this section regarding use of social security identification numbers; nor shall the failure to comply with such prohibition affect the validity or recordability of any document.

(b) Any person or the surviving spouse, attorney-in-fact, or court appointed guardian of the person, may request that a county register of deeds redact the person's social security identification number from any recorded document, if the records are stored in a manner that permits redaction.

(c) The request for redaction of a social security identification number pursuant to subsection (b) shall be made on a paper writing, in a form substantially as follows:

REQUEST FOR REDACTION OF SOCIAL SECURITY NUMBER FROM ELECTRONIC DATABASES

1. Full name of individual whose Social Security number will be redacted as it appears on the document:

2. Name of person making the request if different than above: _____

3. If not the individual whose Social Security number will be redacted, identify the legal relationship that entitles you to make the request: (check one)

a. Surviving spouse _____

b. Attorney-in-fact _____

c. Court appointed guardian _____

4. Type of record:

5. Book and page number or other reference identifying where the document is recorded in the _____ County Register's office:

Book No. _____ Page No. _____ or Instrument No. _____

6. Signature of person making the request: _____

State of Tennessee
County of _____

Personally appeared before me, _____ (person duly authorized to take acknowledgments in [_____] county), the within named _____, with whom I am personally acquainted (or proven to me on the basis of satisfactory evidence) and who acknowledges that such person executed the within instrument for the purpose of making a request of the Register of Deeds of _____ County, Tennessee, to redact a Social Security identification number from the aforementioned record, excepting microfilm records.

Witness my hand this _____ day of _____, 20__.

(signature of person taking acknowledgement)

[Space for Seal of Office]

(d) The completed request form provided in subsection (c) may be recorded in the office of the county register of deeds where submitted. The register has no duty to inquire beyond the acknowledged request to verify the identity or authority of the person requesting the redaction.

(e) Upon recording the written request, the county register shall act in accordance with the request to redact the social security identification number from electronic databases in the office of the county register where practicable. If redaction is not practicable, the county register shall not record the request form and shall verbally or by writing explain why redaction is impracticable to the person making the request.

(f) Subsections (b) - (e) apply only to counties having a population of not less than eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census.

HISTORY: Acts 2003, ch. 292, § 1; 2006, ch.555, § 1.