

TITLE 44

PUBLIC RECORDS AND RECORDERS

CHAPTER 1. PUBLIC RECORDS

PART I. SCOPE

§1. General definitions

A. (1) As used in this Chapter, the phrase "public body" means any branch, department, office, agency, board, commission, district, governing authority, political subdivision, or any committee, subcommittee, advisory board, or task force thereof, or any other instrumentality of state, parish, or municipal government, including a public or quasi-public nonprofit corporation designated as an entity to perform a governmental or proprietary function.

(2)(a) All books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of this state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of this state, are "public records", except as otherwise provided in this Chapter or the Constitution of Louisiana.

(b) Notwithstanding Subparagraph (a), any documentary material of a security feature of a public body's electronic data processing system, information technology system, telecommunications network, or electronic security system, including hardware or software security, password, or security procedure, process, configuration, software, and code is not a "public record".

(3) As used in this Chapter, the word "custodian" means the public official or head of any public body having custody or control of a public record, or a representative specifically authorized by him to respond to requests to inspect any such public records.

B. Electrical well surveys produced from wells drilled in search of oil and gas located in established units and which are filed with the assistant secretary of the office of conservation shall be placed in the open files of the office of conservation. Any party or firm shall have the right to examine or reproduce, or both, at their own expense, copies of said survey, by photography or other means not injurious to said records. All other electric logs and other electronic surveys, other than seismic data, produced from wells drilled in search of oil and gas which are filed with the assistant secretary of the office of conservation shall remain confidential upon the request of the owner so filing for periods as follows:

For wells shallower than fifteen thousand feet a period of one year, plus one additional year when evidence is submitted to the assistant secretary of the office of conservation that the owner of the log has a leasehold interest in the general area in which the well was drilled and the log produced; for wells

fifteen thousand feet deep or deeper, a period of two years, plus two additional years when evidence is submitted to the assistant secretary of the office of conservation that the owner of the log has such an interest in the general area in which the well was drilled and the log produced; and for wells drilled in the offshore area, subsequent to July 1, 1977, regardless of depth, a period of two years from the filing of the log with the office of conservation, plus two additional years where evidence is submitted to the assistant secretary of the office of conservation that the owner of the log has such an interest in the general area in which the well was drilled and the log produced and has immediate plans to develop the said general area, unless a shorter period of confidentiality is specifically provided in the existing lease.

At the expiration of time in which any log or electronic surveys, other than seismic data, shall be held as confidential by the assistant secretary of the office of conservation as provided for above, said log or logs shall be placed in the open files of the office of conservation and any party or firm shall have the right to examine or reproduce, or both, at their own expense, copies of said log or electronic survey, other than seismic data, by photography or other means not injurious to said records.

Amended by Acts 1973, No. 135, §1; Acts 1973, Ex.Sess., No. 4, §1; Acts 1978, No. 686, §1; Acts 1979, No. 691, §1; Acts 1980, No. 248, §1; Acts 2001, No. 707, §1, eff. June 25, 2001; Acts 2001, No. 882, §1.

§2. Records involved in legislative investigations

Subject to the proviso set forth in Sub-section B of R.S. 44:3, the provisions of this Chapter shall not apply to any records, writings, accounts, letters, letter books, photographs or copies thereof, in the custody or control of any attorney or counsel whose duties or functions are performed by or under the authority of the legislature and which concern or hold relation to any case, cause, charge or investigation being conducted by or through the legislature, until after the case, cause, charge or investigation has been finally disposed of.

After final disposition, the records, writings, accounts, letters, letter books, photographs or copies thereof, are public records and subject to the provisions of this Chapter.

§3. Records of prosecutive, investigative, and law enforcement agencies, and communications districts

A. Nothing in this Chapter shall be construed to require disclosures of records, or the information contained therein, held by the offices of the attorney general, district attorneys, sheriffs, police departments, Department of Public Safety and Corrections, marshals, investigators, public health investigators, correctional agencies, communications districts, intelligence agencies, or publicly owned water districts of the state, which records are:

- (1) Records pertaining to pending criminal litigation or any criminal litigation which can be reasonably anticipated, until such litigation has been finally adjudicated or otherwise settled, except as otherwise provided in Subsection F of this Section; or
- (2) Records containing the identity of a confidential source of information or records which would tend to reveal the identity of a confidential source of information; or
- (3) Records containing security procedures, investigative training information or aids, investigative techniques, investigative technical equipment or instructions on the use thereof, criminal intelligence

information pertaining to terrorist-related activity, or threat or vulnerability assessments collected or obtained in the prevention of terrorist-related activity, including but not limited to physical security information, proprietary information, operational plans, and the analysis of such information, or internal security information; or

(4)(a) The records of the arrest of a person, other than the report of the officer or officers investigating a complaint, until a final judgment of conviction or the acceptance of a plea of guilty by a court of competent jurisdiction. However, the initial report of the officer or officers investigating a complaint, but not to apply to any followup or subsequent report or investigation, records of the booking of a person as provided in Louisiana Code of Criminal Procedure Article 228, records of the issuance of a summons or citation, and records of the filing of a bill of information shall be a public record.

(b) The initial report shall set forth:

(i) A narrative description of the alleged offense, including appropriate details thereof as determined by the law enforcement agency.

(ii) The name and identification of each person charged with or arrested for the alleged offense.

(iii) The time and date of the alleged offense.

(iv) The location of the alleged offense.

(v) The property involved.

(vi) The vehicles involved.

(vii) The names of investigating officers.

(c) Nothing herein shall be construed to require the disclosure of information which would reveal undercover or intelligence operations.

(d) Nothing herein shall be construed to require the disclosure of information which would reveal the identity of the victim of a sexual offense.

(5) Records containing the identity of an undercover police officer or records which would tend to reveal the identity of an undercover police officer; or

(6) Records concerning status offenders as defined in the Code of Juvenile Procedure.

(7) Collected and maintained by the Louisiana Bureau of Criminal Identification and Information, provided that this exception shall not apply to the central registry of sex offenders maintained by the bureau.

B. All records, files, documents, and communications, and information contained therein, pertaining to or tending to impart the identity of any confidential source of information of any of the state officers, agencies, or departments mentioned in Paragraph A above, shall be privileged, and no court shall order the disclosure of same except on grounds of due process or constitutional law. No officer or employee

of any of the officers, agencies, or departments mentioned in Paragraph A above shall disclose said privileged information or produce said privileged records, files, documents, or communications, except on a court order as provided above or with the written consent of the chief officer of the agency or department where he is employed or in which he holds office, and to this end said officer or employee shall be immune from contempt of court and from any and all other criminal penalties for compliance with this paragraph.

C. Whenever the same is necessary, judicial determination pertaining to compliance with this section or with constitutional law shall be made after a contradictory hearing as provided by law. An appeal by the state or an officer, agency, or department thereof shall be suspensive.

D. Nothing in this Section shall be construed to prevent any and all prosecutive, investigative, and law enforcement agencies and communications districts from having among themselves a free flow of information for the purpose of achieving coordinated and effective criminal justice.

E. Nothing in this Section shall be construed as forbidding the release of all or part of investigative files of fires classified as arson, incendiary, or suspicious unless, after consultation with the appropriate law enforcement agency, any sheriff, district attorney, or other law enforcement agency directs that the records not be disclosed because of pending or anticipated criminal adjudication.

F. Notwithstanding any other provision of law to the contrary, after a period of ten years has lapsed from the date of death of a person by other than natural causes, and upon approval by the district court having jurisdiction over any criminal prosecution which may result due to the death of such person, any prosecutive, investigative, and other law enforcement agency, or any other governmental agency in possession of investigative files or evidence or potential evidence, or any other record, document, or item relating to said death shall, upon request, provide copies of all such files, records, and documents to immediate family members of the victim and shall provide unlimited access for any and all purposes to all such evidence, potential evidence, and other items to any member of the immediate family and to any person or persons whom any member of the immediate family has designated for such purposes. The access granted shall include but not be limited to the examination, inspection, photographing, copying, testing, making impressions, and the use in any court proceeding of and conducting forensic studies on such evidence, potential evidence, and other items. For the purposes of this Subsection, the term "immediate family" shall mean the surviving spouse, children, grandchildren, and siblings of the victim.

G. Nothing in this Chapter shall be construed to require disclosures of certificates of official driving records in the custody and control of the Department of Public Safety and Corrections, office of motor vehicles, except as specifically provided for in R.S. 15:521.

H. Nothing in this Section shall be construed as prohibiting the release of any report resulting from a request for an investigation of an alleged violation of the crime of identity theft as defined under the provisions of R.S. 14:67.16 to the victim of such alleged crime. However, the information which shall be released to such victim shall be limited to that information required to be released under the provisions of R.S. 14:67.16(G)(2).

Amended by Acts 1972, No. 448, §1; Acts 1978, No. 313, §1; Acts 1978, No. 686, §1; Acts 1979, No. 336, §1; Acts 1983, No. 247, §1; Acts 1984, No. 945, §1; S.C.R. No. 139, 1985 R.S.; Acts 1986, No. 785, §1; Acts 1988, No. 438, §1; Acts 1990, No. 59, §§2 and 3, eff. June 26, 1990; Acts 1990, No. 218, §1, eff. July 2, 1990; Acts 1991, No. 86, §1;

Acts 1995, No. 519, §1, eff. June 18, 1995; Acts 1999, No. 484, §1, eff. June 18, 1999; Acts 1999, No. 1189, §1; Acts 2002, 1st Ex. Sess., No. 128, §4; Acts 2003, No. 631, §2; Acts 2003, No. 844, §3; Acts 2003, No. 1197, §1.

§3.1. Certain records pertaining to terrorist-related activity

Nothing in this Chapter shall be construed to require disclosure of records containing security procedures, criminal intelligence information pertaining to terrorist-related activity, or threat or vulnerability assessments created, collected, or obtained in the prevention of terrorist-related activity, including but not limited to physical security information, proprietary information, operational plans, and the analysis of such information, or internal security information.

Acts 2003, No. 413, §1, eff. June 18, 2003.

§3.2. Proprietary and trade secret information

A. Nothing in this Chapter shall be construed to require the disclosure of proprietary or trade secret information pertaining to any code, pattern, formula, design, device, method, or process which is proprietary or trade secret information which has been submitted to a public body by the developer, owner, or manufacturer of a code, pattern, formula, design, device, method, or process in order to obtain or retain approval of such code, pattern, formula, design, device, method, or process for sale or use in this state.

B. Nothing in this Chapter shall be construed to require the disclosure of proprietary or trade secret information pertaining to any code, pattern, formula, design, device, method, or process which has been submitted to a public body in order to facilitate the further research, development, or commercialization of such code, pattern, formula, design, device, method, or process.

C.(1) All records containing proprietary or trade secret information submitted by a developer, owner, or manufacturer to a public body pursuant to Subsection A or B of this Section shall contain a cover sheet that provides in bold type "DOCUMENT CONTAINS CONFIDENTIAL PROPRIETARY OR TRADE SECRET INFORMATION". The developer, owner, or manufacturer shall clearly mark each instance of information which is, in his opinion, proprietary or trade secret information. However, the determination of whether such information is in fact proprietary or trade secret information shall be made by the custodian within thirty days of a submission; however, if a custodian receives a public records request during the period of thirty days, the determination shall be made within the time period provided in R.S. 44:32(D) and 33(B).

(2) A custodian who receives a request pursuant to this Chapter for any information which has been marked by the developer, owner, or manufacturer as proprietary or trade secret information shall, prior to the disclosure of the information, immediately notify such developer, owner, or manufacturer of the request and of the custodian's determination of whether or not the information so requested is subject to disclosure.

D. General information relating to the identity of the developer, owner, or manufacturer and any agreement or contract that such person or legal entity has entered into with the public body shall be subject to public review.

E. Nothing in this Section shall be construed in a manner as to prevent the public examination or reproduction of any record or part of a record which is not proprietary or trade secret information.

Acts 2004, No. 832, §1, eff. July 12, 2004.

§4. Applicability

This Chapter shall not apply:

(1) To any tax return or the information contained in any tax return. However, the name and address of any person who obtains an occupational license, the information on the face of the license, and information as to whether an occupational license has been issued to a particular person shall be public records.

(2) To the name of any person or any other information from the records, papers or files of the state or its political subdivisions or agencies, concerning persons applying for or receiving old age assistance, aid to the blind, or aid to dependent children.

(3) To any records, writings, accounts, letters, letter books, photographs or copies thereof, in the custody or control of any officer, employee, agent or agency of the state whose duties and functions are to investigate, examine, manage in whole or in part, or liquidate the business of any private person, firm or corporation in this state, when the records, writings, accounts, letters, letter books, photographs or copies thereof, pertain to the business of the private person, firm or corporation, and are in their nature confidential.

(4)(a) To any records, writings, accounts, letters, letter books, photographs, reports of examination, work papers of examiners, including loan write-ups, line sheets, handwritten notes, loan classification documentation, and any other documentation relating to the financial statements of a financial institution's borrowers, or other entity supervised by the office of financial institutions, except as otherwise provided in R.S. 6:103, R.S. 9:3518.1, R.S. 37:1806, R.S. 51:1934, or R.S. 51:2389. This exception shall apply to any financial institution governed by Title 6, supervised entities licensed under Title 9 of the Louisiana Revised Statutes of 1950, and those entities licensed and supervised by the office of financial institutions pursuant to Title 37 or 51 of the Louisiana Revised Statutes of 1950, including those which are exercising the privileges granted by their charters or licenses, as well as those which have been determined to be insolvent or operating in an unsafe and unsound condition and have lost their deposit insurance coverage, or, for other legal reasons have been closed and placed in conservatorship or receivership by the commissioner of financial institutions, or whose licenses issued under the provisions of Title 9, 37, or 51 have been terminated for any lawful reason.

(b) To copies of items exempted under Subparagraph (a) of this Paragraph in the custody or control of the office of financial institutions or any agent or employee of that agency, except as otherwise provided in R.S. 6:103, R.S. 9:3518.1, R.S. 37:1806, R.S. 51:1934, or R.S. 51:2389.

(c) To investigative records of the office of financial institutions which pertain to the application of any person for a charter or license for a new financial institution, and the confidential portion of any application by an entity chartered, licensed, and/or supervised by the office of financial institutions pursuant to Title 6, 9, 37, or 51 of the Louisiana Revised Statutes of 1950, except as otherwise provided in R.S. 6:103, R.S. 9:3518.1, R.S. 37:1806, R.S. 51:1934, or R.S. 51:2389.

(d) To records of the office of financial institutions which pertain to the application for a merger approval or an additional branch office for any existing financial institution governed by Titles 6 and 9 of the Louisiana Revised Statutes of 1950, except as otherwise provided in R.S. 6:103.

(5)(a) To any daily reports or endorsements filed by insurance companies doing business in this state with the commissioner of insurance in accordance with the laws of this state.

(b) All risk-based capital reports filed with the Department of Insurance pursuant to R.S. 22:611 through 620.

(6) To any records, writings, accounts, letters, letter books, photographs, or copies or memoranda thereof in the custody or control of the legislative auditor, or to the actual working papers of the internal auditor of a municipality until the audit is complete, unless otherwise provided.

(7) To any records, writings, accounts, letters, letter books, photographs or copies or memoranda thereof, and any report or reports concerning the fitness of any person to receive, or continue to hold, a license to practice medicine or midwifery, in the custody or control of the Louisiana State Board of Medical Examiners.

(8) To any records, data, writings, accounts, reports, letters, exhibits, pictures, photographs, drawings, charts, maps or copies or memoranda thereof, whether written or oral, filed by or received from any person by the commissioner of conservation, or any official or employee in the Department of Conservation, or which in any manner is in the custody or control of the commissioner of conservation, or any official or employee in the Department of Conservation, which pertain to or in any way involve estimated or proven recoverable reserves of oil, gas or other minerals in place, and the same has been declared, presented or received as confidential at the request of the lawful owner thereof; provided, however, statistical reports which do not reveal the identity of any owner or operator, either directly or by inference, may be released to the public by the commissioner of conservation.

(9) To any records, writings, accounts, letters, letter books, photographs or copies or memoranda thereof, and any report or reports concerning the fitness of any person to receive, or continue to hold, a license to practice as a registered nurse in the custody or control of the Louisiana State Board of Nursing; however, any action taken by the board, and any legal grounds upon which such action is based, relative to the fitness of any person to receive, or continue to hold, a license to practice as a registered nurse shall be a public record.

(10) To any records, data, writings, accounts, reports, letters, exhibits, pictures, photographs, drawings, charts, maps, or copies or memoranda thereof, whether written or oral, filed by or received from the Energy Information Administration of the United States Department of Energy by the secretary of the Department of Natural Resources or any official or employee in the Department of Natural Resources if nondisclosure to any other person or public body was a requirement for obtaining same and the information could not otherwise be obtained by law from that agency; and to any records or information filed with or received by the secretary of the Department of Natural Resources or any official or employee in the Department of Natural Resources from any person who is required by federal law to supply same to the state which information is not available to the public under federal law. Statistical reports which do not reveal, directly or by inference, the identity of the individual sources of

the information compiled by the Department of Energy may be released to the public by the secretary of the Department of Natural Resources.

(11) To any records, writings, accounts, letters, exhibits, data, pictures, drawings, charts, photographs, or copies or memoranda thereof, and any report or reports concerning the fitness of any person to receive or continue to hold a license to practice as a dentist or as a dental hygienist in the custody or control of the Louisiana State Board of Dentistry; however, any final determination made by the board, and any legal grounds upon which such action is based, relative to the fitness of any person to receive or continue to hold a license to practice as a dentist or as a dental hygienist shall be a public record.

(12) To any report, records, writings, accounts, letters, exhibits, data, pictures, drawings, charts, photographs, or copies or memoranda thereof, concerning the fitness of any person to receive or continue to hold a license to practice as a veterinarian in the custody or control of the Louisiana Board of Veterinary Medicine; however, any final determination made by the board, and any legal grounds upon which such action is based, relative to the fitness of any person to receive or continue to hold a license to practice as a veterinarian shall be a public record.

(13) To any of the following for use in the operation of or in connection with any automated broker interface system or any automated manifest system conducted by any deep water or shallow draft port commission of the state and licensed to, leased to, commissioned by, deposited with, or otherwise acquired by such port commission for such purpose:

(a) Any computer system or program including any computer software or related menus, flow charts, source materials, prompts, dialogues, data bases, manuals, and any other computer operating or support materials.

(b) Any financial or trade secrets or other third party proprietary information of any person, firm, corporation, agency, or other entity, whether governmental or private.

(14) To any records of the Department of Health and Human Resources, office of preventive and public health services, which records contain any technical information pertaining to any formula, method, or process which is a trade secret which has been submitted by any manufacturer of a product or mechanical sewage treatment plant in order to obtain or retain approval of such product for sale or use in this state or in order to assist said office in carrying out and enforcing the sanitary laws and regulations of the state.

(15) To any pending claims or pending claim files in the custody or control of the office of risk management, division of administration, or similar records in the custody of any municipality or parish; to any information concerning pending legal claims in the files of any attorney representing the state or any municipality in connection with the office of risk management, division of administration, or any office with similar responsibilities of any municipality or parish; or to any pending claims relating to loss reserves maintained or established by the office of risk management, division of administration, or any office with similar responsibilities of any municipality or parish, for any claims or for losses incurred but not reported; however, this Chapter shall be applicable to reserves as reported in the financial statement of the office of risk management, division of administration, or any municipality or parish. Nothing in this Paragraph shall be construed or interpreted in a manner as to prevent or inhibit in any manner the chairman and vice chairman of the Joint Legislative Committee on the Budget and the litigation subcommittee of the Joint Legislative Committee on the Budget from obtaining dollar amounts

billed by and paid to contract attorneys and experts in defense of claims against the state that the chairman or vice chairman, or the subcommittee determines is necessary to perform functions and duties relative to the evaluation of performance or the determination of budget policy; however, no legislator or any committee of the legislature shall disclose any confidential information so obtained that would jeopardize or have a detrimental effect on the litigating position of the state.

(16) To the following records of a board or institution of higher learning, in accordance with rules and regulations promulgated by the Board of Trustees for State Colleges and Universities, the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and the Board of Supervisors of Southern University and Agricultural and Mechanical College, or their successors, in conjunction with the Board of Regents, for programs and institutions under their supervision and management, unless access to the records is specifically required by state or federal statute or is ordered by a court under rules of discovery:

(a) Trade secrets and commercial or financial information obtained from a person, firm, or corporation, pertaining to research or to the commercialization of technology, including any such information designated as confidential by such person, firm, or corporation, but not including any such information relating to the identity of principals, officers, or individuals and entities directly or indirectly owning or controlling an entity other than a publicly held entity, or the identity of principals, officers, or individuals and entities directly owning or controlling five percent or more of a publicly held entity.

(b) Data, records, or information produced or collected by or for faculty or staff of state institutions of higher learning in the conduct of or as a result of, study or research on commercial, scientific or technical subjects of a patentable or licensable nature, whether sponsored by the institution alone or in conjunction with a governmental body or private concern, until such data, records, or information have been publicly released, published, or patented.

(c) Those portions of research proposals, supporting documentation and information, submitted by an institution of higher learning to the Board of Regents' Louisiana Education Quality Support Fund Program, which have been certified by the institution as containing data, information, ideas, or plans of a potentially patentable or licensable nature, including any discussions or written comments concerning such information by reviewers of the proposals, but not including reviewer ratings, until such data, records, or information have been publicly released, published, or patented.

(d) Those portions of private document collections donated to state institutions of higher learning for historical research or preservation purposes, which are designated by the donor to have restricted access for a specific period of time.

(17) To any records or information required of hospitals by the Department of Health and Hospitals as a condition of hospital licensure pursuant to R.S. 40:2104(B).

(18) To any records, writings, accounts, letters, letter books, photographs, or copies or memoranda thereof, and any report or reports concerning the fitness of any person to receive, or continue to hold, a license to practice chiropractic, in the custody or control of the Louisiana Board of Chiropractic Examiners. However, any final determination made by the board, and any legal grounds upon which such action is based, relative to the fitness of any person to receive or continue to hold a license to practice as a chiropractor shall be a public record.

- (19) To any records or information defined as "confidential data" as provided in R.S. 40:3.1.
- (20) To any records, notes, or maps within the Louisiana Department of Wildlife and Fisheries' Natural Heritage Program database on rare, threatened, or endangered species or unique natural communities.
- (21) To any information received by the Department of Agriculture and Forestry as a result of questionnaires sent to private persons regarding the timber industry; however, the compiled results shall be public record. Notwithstanding the provisions of this Paragraph, the Department of Agriculture and Forestry shall provide any information which it receives as a result of such questionnaires to the Louisiana Tax Commission upon request of the commission.
- (22) To any records or information defined as confidential under provisions of R.S. 40:2018(I).
- (23) To the name and address of a law enforcement officer in the custody of the registrar of voters or the secretary of state, if certified by the law enforcement agency employing the officer that the officer is engaging in hazardous activities to the extent that it is necessary for his name and address to be kept confidential.
- (24) To accident reports, and the information in accident reports, as provided in R.S. 32:398(H).
- (25) To any information, documents, or records received by the Louisiana State Child Death Review Panel, or any local or regional panel established by the Louisiana State Child Death Review Panel defined as confidential under the provisions of R.S. 40:2019(F).
- (26) To any records, writings, accounts, letters, exhibits, pictures, drawings, charts, photographs, or copies or memoranda thereof, in any reports of examinations or evaluations or any other information or data concerning the fitness of any person to receive, or continue to hold, a license or certificate to practice social work or clinical social work in the custody or control of the Louisiana State Board of Social Work Examiners. However, any final determination made by the board, and any legal grounds upon which such action is based, relative to the fitness of any person to receive or to continue to hold a license or certificate to practice social work shall be a public record.
- (27)(a) To any testing instrument used or to be used by the state Department of Education or the State Board of Elementary and Secondary Education to assess the performance of individual students, nor to any answers for such tests or any individual student scores on such tests.
- (b) Nothing in Subparagraph (a) of this Paragraph shall prohibit any person authorized by policies adopted by the state Department of Education or the State Board of Elementary and Secondary Education from having access to the test instrument, test answers, or any individual student scores on such tests as necessary for the performance of his duties and responsibilities, nor any parent or guardian of a child who has taken any such test from having access to or being provided the child's individual test scores.
- (28) To the name of any person, contained within or referred to in the records, papers or files of the Crime Victims Reparations Board, applying for or receiving funds from the Crime Victims Reparations Fund. In lieu of the person's name, the person's file number shall be utilized.

(29) To any records, writings, accounts, recordings, letters, exhibits, data, pictures, drawings, charts, photographs, or copies or memoranda thereof, and any report or reports concerning the fitness of any person to receive or continue to hold a license to practice as a psychologist in the custody or control of the Louisiana State Board of Examiners of Psychologists; however, any action taken by the board and any legal grounds upon which such action is based, relative to the fitness of any person to receive or continue to hold a license to practice as a psychologist shall be a public record, and statistical reports which do not reveal the identity of any licensed psychologist may be released to the public.

(30) To personal information of toll patrons of the Crescent City Connection and the Greater New Orleans Expressway. For the purposes of this Paragraph "personal information" means the address, telephone number, social security number, or financial account numbers of a toll patron who pays toll charges when such information is supplied by a toll patron to the Crescent City Connection Division or the Greater New Orleans Expressway Commission, and the date or time a toll patron has traversed the Crescent City Connection or the Greater New Orleans Expressway.

(31) To proprietary information provided to a communications district by a service provider, as defined in R.S. 33:9106(A)(4). "Proprietary information" as used in this Paragraph shall mean customer telephone numbers, information relating to the quantity, technical destination, location, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and information that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship.

(32) To any records, writings, accounts, recordings, letters, exhibits, data, pictures, drawings, charts, photographs, or copies of memoranda thereof, and any report concerning the fitness of any person to receive or continue to hold a license to practice as a practical nurse in the custody or control of the Louisiana State Board of Practical Nurse Examiners; however, any final determination made by the board, and any legal grounds upon which such action is based, relative to the fitness of any person to receive or continue to hold a license to practice as a practical nurse shall be a public record.

(33)(a) To the name, address, and telephone number of any student enrolled in any public elementary or secondary school in the state in a record of a public elementary or secondary school or a city or parish school board.

(b) Nothing in Subparagraph (a) of this Paragraph shall prohibit any official or employee of any public elementary or secondary school, the state Department of Education, or the State Board of Elementary and Secondary Education from having access to a student's name, address, and telephone number but only as necessary for the performance of his duties and responsibilities.

(34)(a) To the social security number of any teacher or school employee employed by a city, parish, or other local public school board or any nonpublic school.

(b) Nothing in Subparagraph (a) of this Paragraph shall prohibit any official or employee of any elementary or secondary school at which the teacher or school employee works, of the school board employing the teacher, of the state Department of Education, or of the State Board of Elementary and Secondary Education from having access to the social security number of a teacher or school employee but only as necessary for the performance of the duties and responsibilities of such official or employee.

(c) For the purposes of this Paragraph, "school board" shall include any city, parish, or other local public school board and the governing authority of any nonpublic school.

(35) To any records, writings, accounts, letters, exhibits, pictures, drawings, charts, or photographs, or copies or memoranda thereof, in any reports of examinations or evaluations or in any other information or data in the custody of the Louisiana Board of Pharmacy concerning the fitness of any person to receive, or continue to hold, a license, permit, certificate, or registration to practice or assist in the practice of pharmacy. However, any final determination made by the board and any legal grounds upon which such action is based, relative to the fitness of any person to receive or continue to hold a license, permit, certificate, or registration to practice or assist in the practice of pharmacy shall be a public record.

(36) To terms and conditions of the rebate agreement, rebate amounts, percent of rebate, manufacturer's pricing, and supplemental rebates which are contained in records of the Department of Health and Hospitals and its agents with respect to supplemental rebate negotiations for prescription drug coverage by the Medicaid Program and which are prepared pursuant to a supplemental rebate agreement, provided that the total amount of supplemental rebates recouped by the department shall be a public record. Such information shall be considered proprietary and confidential, provided that such information shall be subject to review by the legislative auditor and the legislative fiscal officer.

(37) To any protected health information as defined in R.S. 29:762 pursuant to the Louisiana Public Health Emergency Act.

(38) To any records, data, writings, accounts, reports, letters, exhibits, pictures, photographs, drawings, charts, maps, e-mail, or copies or memoranda thereof, whether written or oral, in the custody of the office of conservation contained in pipeline security procedures developed to prevent potential terrorist-related threats or activities, including physical security information, proprietary information, vulnerability assessments, operational plans and analysis of such information, and internal security information. Nothing in this Paragraph shall prevent the office of conservation from transmitting information to the United States Department of Transportation as necessary for the performance of their duties and functions.

(39) To any records, writings, accounts, letters, letter books, photographs, or copies or memoranda thereof, and any report or reports concerning the fitness of any person to receive, or continue to hold, a license to practice optometry, in the custody or control of the Louisiana State Board of Optometry Examiners. However, any final determination made by the board after an adjudication hearing, other than by consent order, agreement, or other informal disposition shall be a public record.

(40) To any records, writings, plans, blueprints, or any information pertaining to security systems or features submitted to obtain an individual building permit on file in the office of a regulatory agency or official; any records, writings, plans, blueprints, or information submitted to obtain an individual building permit which details the interior layout of a residence to such an extent that access thereto would make such residence particularly vulnerable to burglary or other criminal activity; or any records, writings, plans, blueprints, or information containing any proprietary work product, design, or plan of any architect or engineer submitted to obtain an individual building permit; however, this Chapter shall be applicable to any survey or plot plan submitted solely for the purposes of displaying the outline of a building on a lot or lots of record in order to show compliance with yard or other setback requirements of a zoning ordinance or other such regulatory law.

(41) To the following information related to a credit card issued to a public body: the entire credit card number, the credit card expiration date, the passcode or access code, the credit card personal identification number or "PIN", or any other information which could be used to make a charge to the credit card account or otherwise access the credit card account information; however, this Chapter shall apply to all other information regarding the credit card and credit card account.

(42) To any portion of a notarial examination administered or to be administered by the secretary of state, nor to any answers for such a notarial examination.

(43) To the information contained in an application of an applicant under the age of eighteen who is applying for membership on the Louisiana Legislative Youth Advisory Council, except as otherwise provided in R.S. 24:973.1(G).

Amended by Acts 1950, No. 155, §1; Acts 1976, No. 133, §1, eff. July 16, 1976; Acts 1979, No. 639, §1; Acts 1981, No. 898, §1, eff. Aug. 2, 1981; Acts 1982, No. 387, §1; Acts 1982, No. 867, §1, eff. Aug. 4, 1982; Acts 1983, No. 590, §2, eff. July 14, 1983; Acts 1984, No. 664, §1, eff. July 13, 1984; Acts 1985, No. 62, §1; Acts 1986, No. 215, §1; Acts 1986, No. 784, §1; Acts 1987, No. 732, §1; Acts 1988, No. 296, §1; Acts 1988, No. 102, §1, eff. June 29, 1988; Acts 1989, No. 229, §2; Acts 1989, No. 533, §1; Acts 1990, No. 59, §2, eff. June 26, 1990; Acts 1990, No. 67, §1; Acts 1990, No. 769, §1; Acts 1990, No. 831, §1, eff. July 24, 1990; Acts 1991, No. 167, §1; Acts 1991, No. 477, §1, eff. July 15, 1991; Acts 1991, No. 515, §2; Acts 1991, No. 810, §2; Acts 1992, No. 878, §2; Acts 1993, No. 837, §2, eff. July 1, 1993; Acts 1995, No. 1203, §2, eff. June 29, 1995; Acts 1997, No. 366, §4; Acts 1999, No. 736, §2; Acts 1999, No. 793, §2; Acts 2000, 1st Ex. Sess., No. 48, §1, eff. April 17, 2000; Acts 2000, 1st Ex. Sess., No. 58, §1; Acts 2001, No. 451, §4, eff. Jan. 12, 2004; Acts 2001, No. 481, §1; Acts 2001, No. 534, §1, eff. June 21, 2001; Acts 2001, No. 581, §1; Acts 2001, No. 748, §1; Acts 2001, No. 789, §1, eff. June 26, 2001; Acts 2001, No. 798, §2; Acts 2001, No. 1102, §9; Acts 2001, No. 1107, §1; Acts 2002, 1st Ex. Sess., No. 124, §1, eff. April 23, 2002; Acts 2003, No. 658, §1, eff. June 27, 2003; Acts 2003, No. 987, §2; Acts 2003, No. 1055, §1, eff. July 2, 2003; Acts 2003, No. 1206, §2; Acts 2004, No. 149, §1, eff. June 10, 2004; Acts 2006, No. 424, §1, eff. June 15, 2006; Acts 2007, No. 155, §1, eff. June 25, 2007; Acts 2007, No. 459, §2, eff. Jan. 1, 2008; Acts 2008, No. 415, §2, eff. Jan. 1, 2009; Acts 2008, No. 765, §2, eff. July 6, 2008. NOTE: See Acts 2001, No. 451, §8(A), relative to effective date of R.S. 44:4(23) as amended in §4 of the Act.

§4.1. Exceptions

A. The legislature recognizes that it is essential to the operation of a democratic government that the people be made aware of all exceptions, exemptions, and limitations to the laws pertaining to public records. In order to foster the people's awareness, the legislature declares that all exceptions, exemptions, and limitations to the laws pertaining to public records shall be provided for in this Chapter or the Constitution of Louisiana. Any exception, exemption, and limitation to the laws pertaining to public records not provided for in this Chapter or in the Constitution of Louisiana shall have no effect.

B. The legislature further recognizes that there exist exceptions, exemptions, and limitations to the laws pertaining to public records throughout the revised statutes and codes of this state. Therefore, the following exceptions, exemptions, and limitations are hereby continued in effect by incorporation into this Chapter by citation:

(1) R.S. 3:552.24, 556.10, 557.12, 558.10, 559.9, 750, 1313, 1367, 1901, 3204, 3221, 3370, 3421, 3706, 4021, 4110

- (2) R.S. 6:103, 122, 135, 1308
- (3) R.S. 9:172, 224, 313, 331.1, 395, 461, 1033, 3518.1, 3556, 3574.6, 3576.21
- (4) R.S. 11:174
- (5) R.S. 13:1905, 2593, 3715.3, 3715.4, 3734, 4687, 5108.1, 5304
- (6) R.S. 14:403, 403.1, 403.2, 403.5
- (7) R.S. 15:242, 440.6, 477.2, 549, 570(F), 574.12, 578.1, 616, 660, 840.1, 1176, 1204.1
- (8) R.S. 17:7.2, 46, 47, 81.9, 334, 391.4, 500.2, 1175, 1202, 1237, 1252, 1952, 1989.7, 2047, 2048.31, 3099, 3136, 3390, 3773, 3884
- (9) R.S. 18:43, 44, 114, 116, 154, 1308, 1491.5, 1495.3, 1511.8
- (10) R.S. 22:2, 14, 88, 244, 461, 572, 574, 618, 706, 732, 752, 1203, 1460, 1466, 1644, 1656, 1723, 1929, 1983, 2036
- (11) R.S. 23:1177, 1291, 1292, 1293, 1306, 1660, 1671
- (12) R.S. 24:513, 513.1, 513.3, 518
- (13) R.S. 26:921
- (14) R.S. 27:13, 21, 22, 25, 45, 61, 237
- (15) R.S. 28:56, 391, 398
- (15.1) R.S. 29:765
- (16) R.S. 30:10.1, 209.1, 213, 215, 907, 908, 916, 2030, 2074, 2351, 2351.54, 2564
- (17) R.S. 32:398, 707.2, 1254
- (18) R.S. 33:1334, 2182, 2428, 4547.1, 4720.151, 4720.161, 4720.171, 9109, 9128
- (19) R.S. 34:340.21, 1005
- (20) R.S. 36:108
- (21) R.S. 37:74, 86, 90, 147, 691, 763, 763.1, 781, 920.1, 969.1, 1277, 1278, 1285, 1326, 1395.1, 1400, 1518, 1745.15, 1747, 1806, 2156.1, 3481, 3507.1
- (22) R.S. 38:2212.1, 2220.3, 3053, 3104
- (23) R.S. 39:294, 1435

(24) R.S. 40:3.1, 31.14, 31.27, 39.1, 41, 73, 526, 528, 1007, 1098.8, 1232.7, 1299.6, 1299.35.10, 1299.44, 1299.85, 1299.87, 1300.14, 1300.54, 1379.3, 2009.8, 2009.14, 2010.5, 2017.9, 2018, 2019, 2106, 2109.1, 2138, 2532

(25) R.S. 42:6.1, 57, 1111, 1116.1, 1141, 1158

(26) R.S. 44:19, 408, 425

(27) R.S. 45:1313(C)

(28) R.S. 46:56, 236.1.1 through 238, 284, 286.1, 439.1, 446.1, 1073, 1355, 1806, 1844, 1845, 1923, 2124.1, 2134, 2356, 2416, 2603, 2625, 2685

(29) R.S. 47:15, 349, 633.6, 1508, 1515.3, 1516, 1837, 2130, 2327, 2605, 9006

(30) R.S. 48:255.1

(31) R.S. 49:220.25, 956, 997, 1055

(32) R.S. 51:710.2(B), 705, 706, 936, 1404, 1926, 1934, 2182, 2262, 2318, 2389

(33) R.S. 56:301.4, 306.5, 309.4, 637

(34) C.C.P. Art. 891, 1426

(35) C.Cr.P. Art. 103, 877, 894

(36) Ch.C. Arts. 328, 404, 412, 424.6, 424.9, 441, 543, 545, 615, 616, 616.1, 663, 888, 891, 893, 920, 1007, 1106, 1107, 1185, 1186, 1187, 1207, 1213, 1229, 1235, 1252, 1273, 1283.5, 1283.10, 1416, 1453, and 1568

C. The provisions of this Chapter shall not apply to any writings, records, or other accounts that reflect the mental impressions, conclusions, opinions, or theories of an attorney or an expert, obtained or prepared in anticipation of litigation or in preparation for trial.

Acts 2001, No. 882, §1; Acts 2003, No. 221, §3, eff. June 5, 2003; Acts 2003, No. 283, §2; Acts 2003, No. 540, §2, eff. June 27, 2003; Acts 2003, No. 667, §2; Acts 2003, No. 1206, §2; Acts 2003, No. 1245, §2; Acts 2004, No. 699, §1; Acts 2004, No. 865, §3, eff. July 12, 2004; Acts 2005, No. 63, §2; Acts 2005, No. 119, §2, eff. Jan. 1, 2006; Acts 2005, No. 250, §2; Acts 2006, No. 227, §2; Acts 2006, No. 464, §2, eff. June 15, 2006; Acts 2006, No. 676, §2, eff. July 1, 2006; Acts 2006, No. 723, §2, eff. June 29, 2006; Acts 2007, No. 55, §2, eff. June 18, 2007; Acts 2007, No. 274, §2; Acts 2008, 1st Ex. Sess., No. 12, §2, eff. April 26, 2008; Acts 2008, No. 211, §2; Acts 2008, No. 415, §2, eff. Jan. 1, 2009; Acts 2008, No. 506, §1, eff. Jan. 1, 2009; Acts 2008, No. 532, §3; Acts 2008, No. 881, §2; Acts 2008, No. 891, §2, eff. July 9, 2008; Acts 2008, No. 901, §2, eff. July 1, 2008; Acts 2008, No. 912, §2, eff. July 14, 2008. NOTE: See also R.S. 45:844.55(D) added by Acts 2004, No. 736. NOTE: See Acts 2005, No. 119, §5, eff. June 21, 2005, relative to implementation of Act.

§5. Records in custody of governor

A. This Chapter shall not apply to any of the books, records, writings, accounts, letters, letter books, photographs, or copies thereof ordinarily kept in the custody or control of the governor in the usual course of the duties and business of his office, or to those having been used, being in use, or prepared, possessed, or retained for use by or on behalf of the governor in the usual course of the duties and business of his office.

B. The provisions of this Section shall not apply to any agency transferred or placed within the office of the governor.

C. The provisions of this Section shall not prevent any person otherwise herein authorized so to do from examining and copying any books, records, papers, accounts or other documents pertaining to any money or monies or any financial transactions in the control of or handled by or through the governor.

Acts 2001, No. 8, §13, eff. July 1, 2001; Acts 2001, No. 9, §6, eff. July 1, 2001; Acts 2003, No. 850, §2; Acts 2008, No. 765, §3, eff. Jan. 1, 2009.

§6. Completed reports of the Legislative Auditor

The completed reports of audits of the Legislative Auditor shall be public records and shall be available at the office of the Legislative Auditor three days after the completion of the reports.

Amended by Acts 1982, No. 117, §1.

§7. Hospital records

A. Except as provided in Subsections B, C, and E of this Section and R.S. 44:17, the charts, records, reports, documents, and other memoranda prepared by physicians, surgeons, psychiatrists, nurses, and employees in the public hospitals of Louisiana, adult or juvenile correctional institutions, public mental health centers, and public schools for the mentally deficient to record or indicate the past or present condition, sickness or disease, physical or mental, of the patients treated in the hospitals are exempt from the provisions of this Chapter, except the provisions of R.S. 44:36 and 39. Nothing herein shall prevent hospitals from providing necessary reports pursuant to R.S. 22:976, R.S. 29:765, R.S. 40:2019, and R.S. 44:17, nor shall any liability arise from the good faith compliance therewith.

B. The governing authority of each public hospital, adult or juvenile correctional institution, public mental health center or public state school for the mentally deficient, may make and enforce rules under which these charts, records, reports, documents or other memoranda may be exhibited, or copied by or for persons legitimately and properly interested in the disease, physical or mental, or in the condition of patients.

C. Whenever the past or present condition, sickness or disease, physical or mental, of any patient treated in any hospital, adult or juvenile correctional institution, center or school, set forth in Subsection A of this Section shall be at issue or relevant in any judicial proceeding, the charts, records, reports, documents and other memoranda referred to in said Subsection A shall be subject to discovery, subpoena and introduction into evidence in accordance with the general law of the state relating to discovery, subpoena and introduction into evidence of records and documents.

D. The records and proceedings (1) of any public hospital committee, medical organization committee, or extended care facility committee established under state or federal law or regulations or under the bylaws, rules, or regulations of such organization or institution or (2) of any hospital committee, medical organizational committee, or extended care facility committee established by a private hospital licensed under the provisions of R.S. 40:2100 et seq. shall be confidential and shall be used by such committee and the members thereof only in the exercise of the proper functions of the committee and shall not be public records and shall not be available for court subpoena. No physician; hospital, whether public or private; organization; or institution furnishing information, data, reports, or records to any such committee with respect to any patient examined or treated by such physician or confined in such hospital or institution shall, by reason of furnishing such information, be liable in damages to any person. No member of such a committee shall be liable in damages to any person for any action taken or recommendation made within the scope of the functions of such committee if such committee member acts without malice and in the reasonable belief that such action or recommendation is warranted by the facts known to him. However, medicaid or medicare benefits or insurance benefits provided by a private insurer shall not be denied to any person due to inability to secure records or proceedings referred to in this Section. Nothing contained herein shall be construed to prevent disclosure of such data to appropriate state or federal regulatory agencies which by statute or regulation are otherwise entitled to access to such data.

E. The governing authority of each public hospital, adult or juvenile correctional institution, public mental health center, or public state school for the mentally deficient, shall make available for inspection and copying and shall release upon request an abstract of the patient's record in which all identifying data has been properly encoded to assure confidentiality relating to patients treated in such institutions to the Louisiana cancer registry program established pursuant to R.S. 40:1229.70 et seq.

F. All records of interviews, health surveys, questionnaires, laboratory and clinical data, reports, statements, notes, and memoranda, which contain identifying characteristics of research subjects, hereinafter referred to as "confidential data", and which are procured and prepared by employees of public universities, medical schools, and colleges for the purpose of research, and acting in accordance with institutional Internal Review Board policy and procedures for research involving human subjects, shall be exempt from the provisions of this Chapter and shall be subject to the following provisions:

(1) No part of the confidential data shall be available for subpoena nor shall it be disclosed, discoverable, or be compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall such records be deemed admissible as evidence in any civil, criminal, or administrative proceeding, or other tribunal or court for any reason.

(2) Nothing in this Section shall prohibit the publishing of data that does not identify individuals or groups which have been assured confidentiality of identification.

(3) Nothing in this Section shall prohibit the publication of results of the research that maintains the confidentiality of the identification of the individual or group that is the subject of research pursuant to this Section.

(4) Nothing in this Section shall prohibit the voluntary disclosure of identifying characteristics of research subjects provided the researcher obtains the consent of the individuals so identified prior to the release of the information.

Amended by Acts 1962, No. 112, §1; Acts 1974, No. 315, §1; Acts 1975, No. 679, §1; Acts 1978, No. 660, §3; Acts 1979, No. 496, §1; Acts 1981, No. 417, §1; Acts 1991, No. 427, §2; Acts 1991, No. 659, §2; Acts 1995, No. 521, §2, eff. Jan. 1, 1996; Acts 1997, No. 890, §1, eff. July 10, 1997; Acts 1999, No. 736, §2; Acts 2003, No. 1206, §2; Acts 2008, No. 415, §2, eff. Jan. 1, 2009. NOTE: See Acts 1997, No. 890, §2, relative to retroactivity.

§8. Louisiana office building corporation, special provisions

A. The private, nonprofit corporation known as the Louisiana Office Building Corporation, incorporated in the parish of East Baton Rouge on June 30, 1965, is hereby declared to be a quasi-public corporation. All papers, documents, contracts, legal agreements, correspondence, minutes of meetings and any other record whatsoever of said corporation are hereby declared to be matters of public record, and shall be open to inspection by state officials and employees, members of the Legislature and legislative staff personnel and the general public. The officers, members of the board of directors, agents and employees of said corporation are hereby authorized and directed to grant access to any record of said corporation upon request. The procedure for access to records under the authority of this Section shall be in keeping with the general provisions for access to public records contained in Chapter I of this Title.

B. All officers, directors and employees of the Louisiana Office Building Corporation who are also elected officials of the State of Louisiana shall be subject to the provisions of the code of ethics for state elected officials contained in R.S. 42:1141-1148 with reference to actions taken in their capacities as such officers, directors or employees of the said corporation. All other officers, directors and employees of the corporation shall be subject to the provisions of the code of ethics for state employees contained in R.S. 42:1111-1123 to the same extent as any state employees.

C. All books and records of the Louisiana Office Building Corporation shall be subject to audit and review by the Legislative Auditor to the same extent as all other state departments or agencies.

Added by Acts 1966, No. 429, §§1 to 3.

§9. Records of violations of municipal ordinances and of state statutes classified as a misdemeanor or felony

A. (1) Any person who has been arrested for the violation of a municipal or parish ordinance or for violation of a state statute which is classified as a misdemeanor may make a written motion to the district, parish, or city court in which the violation was prosecuted or to the district court located in the parish in which he was arrested, for expungement of the arrest record, under either of the following conditions:

(a) The time limitation for the institution of prosecution on the offense has expired, and no prosecution has been instituted; or

(b) If prosecution has been instituted, and such proceedings have been finally disposed of by dismissal, sustaining of a motion to quash, or acquittal.

(2) If the court finds that the mover is entitled to the relief sought as authorized by this Subsection, it shall order all agencies and law enforcement offices having any record of the arrest, whether on microfilm, computer card or tape, or on any other photographic, electronic, or mechanical method of

storing data, to destroy any record of arrest, photograph, fingerprint, or any other information of any and all kinds or descriptions. The court shall order such custodians of records to file a sworn affidavit to the effect that the records have been destroyed and that no notations or references have been retained in the agency's central repository which will or might lead to the inference that any record ever was on file with any agency or law enforcement office. The original of this affidavit shall be kept by the court so ordering same and a copy shall be retained by the affiant agency which said copy shall not be a public record and shall not be open for public inspection but rather shall be kept under lock and key and maintained only for internal record keeping purposes to preserve the integrity of said agency's files and shall not be used for any investigative purpose. This Subsection does not apply to arrests for a first or second violation of any ordinance or statute making criminal the driving of a motor vehicle while under the influence of alcoholic beverages or narcotic drugs, as denounced by R.S. 14:98 or 98.1.

(3)(a) The Bureau of Criminal Identification and Information may charge a processing fee of one hundred twenty-five dollars for the expungement of any record of arrest when ordered to do so by the court in compliance with the provisions of this Section.

(b) The clerk of court shall collect the processing fee at the time the motion for expungement is filed and may collect a fee of up to ten dollars to cover the clerk's administration costs. If the court finds the mover is entitled to the relief sought, the clerk shall direct the collected processing fee to the Bureau of Criminal Identification and Information and the processing fee amount shall be deposited immediately upon receipt into the Criminal Identification and Information Fund. If the court does not grant such relief, the clerk of court shall return the fee to the moving party.

(c) Notwithstanding the provisions of Subparagraphs (a) and (b) of this Paragraph, a juvenile who has participated in and has successfully completed any juvenile drug court program operated by a court of this state shall be exempt from payment of the processing fees otherwise authorized by this Paragraph.

B.(1) Any person who has been arrested for the violation of a felony offense or who has been arrested for a violation of R.S. 14:34.2, R.S. 14:34.3, or R.S. 14:37 may make a written motion to the district court for the parish in which he was arrested for the expungement of the arrest record if:

(a) The district attorney declines to prosecute, or the prosecution has been instituted, and such proceedings have been finally disposed of by acquittal, dismissal, or sustaining a motion to quash; and

(b) The record of arrest and prosecution for the offense is without substantial probative value as a prior act for any subsequent prosecution.

(2) If, after a contradictory hearing with the district attorney and the arresting law enforcement agency, the court finds that the mover is entitled to the relief sought for the above reasons, it shall order all law enforcement agencies to expunge the record of the same in accordance herewith. However, nothing in this Paragraph shall limit or impede the authority under law to consider prior arrests or convictions in pursuing prosecution under multiple offender provisions or impede the investigation of any law enforcement official seeking to ascertain or confirm the qualifications of any person for any privilege or license authorized by law.

C. (1) Any person who has been arrested for the violation of a state statute which is classified as a felony may make a written motion to the district court for the parish in which he was arrested for

expungement of the arrest record if the time limitation for the institution of prosecution on the offense has expired, and no prosecution has been instituted.

(2) If, after a contradictory hearing with the arresting agency, the court finds that the mover is entitled to the relief sought for any of the above reasons, it shall order all law enforcement agencies to expunge same* in accordance herewith. However, the arresting agency may preserve the name and address of the person arrested and the facts of the case for investigative purposes only.

D. Whoever violates any provisions of this section shall be punished by a fine of not more than two hundred fifty dollars or by imprisonment of not more than ninety days, or both, if the conviction is for a first violation; second and subsequent violations shall be punished by a fine of not more than five hundred dollars or imprisonment of six months, or both.

E.(1)(a) No court shall order the destruction of any record of the arrest and prosecution of any person convicted of a felony, including a conviction dismissed pursuant to Article 893 of the Code of Criminal Procedure.

(b) After a contradictory hearing with the district attorney and the arresting law enforcement agency, the court may order expungement of the record of a felony conviction dismissed pursuant to Article 893 of the Code of Criminal Procedure. Upon the entry of such an order of expungement, all rights which were lost or suspended by virtue of the conviction shall be restored to the person against whom the conviction has been entered, and such person shall be treated in all respects as not having been arrested or convicted unless otherwise provided in this Section or otherwise provided in the Code of Criminal Procedure Articles 893 and 894.

(2) No court shall order the expungement or destruction of any record of the arrest and prosecution of any person convicted of a sex offense as defined by R.S. 15:541(14.1), involving a child under the age of seventeen years. The provisions of this Paragraph shall apply to all records of any proceedings, order, judgment, or other action under Code of Criminal Procedure Article 893.

(3)(a) A court may order the destruction or the expungement of the record of a misdemeanor conviction dismissed pursuant to Article 894 of the Code of Criminal Procedure. However, no destruction of the record shall be ordered for any conviction for a first or second violation of any ordinance or statute making criminal the driving of a motor vehicle while under the influence of alcoholic beverages or narcotic drugs, as denounced by R.S. 14:98 or 98.1.

(b) Upon the entry of such an order of expungement, all rights which were lost or suspended by virtue of the conviction shall be restored to the person against whom the conviction has been entered, and such person shall be treated in all respects as not having been arrested or convicted unless otherwise provided in this Section or otherwise provided in the Code of Criminal Procedure Articles 893 and 894.

(4) However a criminal background check requested by a health care provider pursuant to R.S. 40:1300.51 et seq. shall include records which would inform a potential employer of any crimes enumerated in said statute which were committed by an applicant for employment.

F. For investigative purposes only, the Department of Public Safety and Corrections may maintain a confidential, nonpublic record of the arrest and disposition. The information contained in this record may be released, upon specific request therefor and on a confidential basis, to any law enforcement

agency, criminal justice agency, the Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, the Louisiana State Board of Examiners of Psychologists, the Emergency Medical Services Certification Commission, Louisiana Attorney Disciplinary Board, Office of Disciplinary Counsel, or the Louisiana Supreme Court Committee on Bar Admissions. The receiving law enforcement agency, criminal justice agency, the Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, the Louisiana State Board of Examiners of Psychologists, the Emergency Medical Services Certification Commission, the Louisiana Attorney Disciplinary Board, Office of Disciplinary Counsel, or the Louisiana Supreme Court Committee on Bar Admissions shall maintain the confidentiality of such record.

G. "Expungement" means removal of a record from public access but does not mean destruction of the record. An expunged record is confidential, but remains available for use by law enforcement agencies, criminal justice agencies, the Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, the Louisiana State Board of Examiners of Psychologists, the Emergency Medical Services Certification Commission, the Louisiana Attorney Disciplinary Board, Office of Disciplinary Counsel, or the Louisiana Supreme Court Committee on Bar Admissions.

H. A convicted felon while in the custody of the secretary of the Department of Public Safety and Corrections shall have no right or standing to petition the court for expungement under this Section.

I. Except to those agencies listed in Subsection G of this Section, no person whose record of arrest and conviction has been expunged pursuant to the provisions of this Section shall be required to disclose that he was arrested or convicted for the subject offense or that the record of the arrest and conviction has been expunged, unless otherwise provided in this Section.

J.(1) Any person who has obtained from the appropriate district court an order expunging an arrest may, with the consent of the district attorney, petition the same court alleging actual innocence for an order to destroy the records previously expunged.

(2) Such petition must be served on the arresting agency and the custodian of such records at least fifteen days in advance of any consideration by the court.

(3) No such petition may be entertained by the court without the express written consent of the district attorney. Such consent may be withdrawn at any time prior to consideration by the court.

(4) Upon consideration of the petition to destroy records properly authorized by the district attorney, the court shall order all agencies and law enforcement offices having any record of the arrest, whether on microfilm, computer card or tape, or on any other photographic, electronic or mechanical method of storing data, to destroy any record of arrest, photograph, fingerprint, or any other information of any and all kinds or descriptions.

(5) Any such order may include a requirement that the custodian of records file a sworn affidavit attesting that the records have been destroyed and that no notations or references have been retained in the agency's or law enforcement office's central repository which will or might lead to the inference that any record ever was on file with any agency or law enforcement office. The original of this affidavit shall be kept by the court so ordering same, and a copy shall be retained by the affiant agency or law enforcement office which said copy shall not be a public record and shall not be open for public inspection but rather shall be kept under lock and key and maintained only for internal recordkeeping

purposes to preserve the integrity of said agency's or law enforcement office's files and shall not be used for any investigative purpose.

Added by Acts 1970, No. 445, §1. Amended by Acts 1972, No. 715, §§2, 3; Acts 1974, No. 531, §1; Acts 1976, No. 678, §1; Acts 1978, No. 570, §1; Acts 1981, No. 936, §1, eff. Aug. 2, 1981; Acts 1985, No. 852, §1; Acts 1989, No. 606, §1; Acts 1995, No. 295, §1; Acts 1995, No. 1251, §3; Acts 1996, 1st Ex. Sess., No. 5, §2, eff. April 23, 1996; Acts 1997, No. 1296, §5, eff. July 15, 1997; Acts 1999, No. 1111, §1; Acts 2001, No. 1206, §2; Acts 2003, No. 1043, §1; Acts 2004, No. 797, §2, eff. July 8, 2004; Acts 2005, No. 53, §1; Acts 2006, No. 673, §1; Acts 2007, No. 314, §1.

**NOTE: As appears in enrolled bill. NOTE: Acts 1996, 1st Ex. Sess., No. 5, amending R.S. 44:9(B), is retroactive to Aug. 15, 1995. NOTE: See Acts 2006, No. 673, §2, regarding prospective and retroactive application of R.S. 44:9(J).*

§10. Confidential nature of documents and proceedings of judiciary commission

All documents filed with, and evidence and proceedings before the judiciary commission are confidential. The record filed by the commission with the supreme court and proceedings before the supreme court are not confidential.

Added by Acts 1975, No. 55, §1.

§11. Confidential nature of certain personnel records

A. Notwithstanding anything contained in this Chapter or any other law to the contrary, the following items in the personnel records of a public employee of any public body shall be confidential:

- (1) The home telephone number of the public employee where such employee has chosen to have a private or unlisted home telephone number because of the nature of his occupation with such body.
- (2) The home telephone number of the public employee where such employee has requested that the number be confidential.
- (3) The home address of the public employee where such employee has requested that the address be confidential.
- (4) The name and account number of any financial institution to which the public employee's wages or salary are directly deposited by an electronic direct deposit payroll system or other direct deposit payroll system.

B. The provisions of R.S. 44:11(A)(3) shall not apply to the personnel records of a city or parish school board to the extent that the home address of any employee of a city or parish school board shall be made available to recognized educational groups.

C. Notwithstanding any other provision of this Chapter, the social security number and financial institution direct deposit information as contained in the personnel records of a public employee of any public body shall be confidential. However, when the employee's social security number or financial institution direct deposit information is required to be disclosed pursuant to any other provision of law, including such purposes as child support enforcement, health insurance, and retirement reporting, the

social security number or financial institution direct deposit information of the employee shall be disclosed pursuant to such provision of law.

D. Notwithstanding anything contained in this Chapter or any other law to the contrary, all medical records, claim forms, insurance applications, requests for the payment of benefits, and all other health records of public employees, public officials, and their dependents in the personnel records of any public body shall be confidential. However, nothing in this Chapter shall be intended to limit access to employee records under the Code of Civil Procedure or Code of Evidence.

Added by Acts 1982, No. 24, §1, eff. July 9, 1982; Acts 1987, No. 371, §1; Acts 1988, No. 591, §1; Acts 1999, No. 371, §1; Acts 2003, No. 326, §1, eff. June 13, 2003; Acts 2003, No. 342, §1.

§12. Medical records of persons covered by the Office of Group Benefits programs

A. All medical records, claim forms, life insurance applications, requests for the payment of benefits, and all other health records of employees and dependents enrolled in the Office of Group Benefits programs pursuant to the provisions of R.S. 42:821 or R.S. 42:851, or an employee benefit plan or program of a political subdivision, which are in the custody or control of the Office of Group Benefits, the board of trustees of a program of a political subdivision, a plan administrator, or any duly appointed representative are exempt from the provisions of this Chapter.

B. All other records pertaining to such programs in the custody or control of the Office of Group Benefits, the board of trustees of a program of a political subdivision, a plan administrator, or a duly appointed representative of the Office of Group Benefits or a program of a political subdivision are subject to the provisions of this Chapter.

C. All books and records of the Office of Group Benefits shall be subject to audit and review by the legislative auditor to the same extent as all other state departments or agencies.

Added by Acts 1982, No. 102, §1. Acts 1986, No. 866, §1; Acts 2001, No. 1178, §6, eff. June 29, 2001.

§12.1. Records of applicants for public positions; prohibitions

A. The name of each applicant for a public position of authority or a public position with policymaking duties, the qualifications of such an applicant related to such position, and any relevant employment history or experience of such an applicant shall be available for public inspection, examination, copying, or reproduction as provided in Part II of this Chapter.

B.(1) No public body or agent acting on behalf of such a public body shall utilize only oral contacts and interviews of applicants considered when filling vacancies in public positions of authority or public positions with policymaking duties or use any other means to circumvent the provisions of this Section.

(2)(a) Nothing in this Section shall prohibit oral contact prior to a person becoming an applicant or shall prohibit oral contact which may result in written documents.

(b) Nothing in this Paragraph shall require a particular method or procedure for filling vacancies as long as not exclusively by use of oral contact.

(3) Any person who violates the provisions of this Section shall be subject to all applicable penalties for violations of this Chapter.

Acts 2006, No. 746, §1.

§13. Registration records and other records of use maintained by libraries

A. Notwithstanding any provisions of this Chapter or any other law to the contrary, records of any library which is in whole or in part supported by public funds, including the records of public, academic, school, and special libraries, and the State Library of Louisiana, indicating which of its documents or other materials, regardless of format, have been loaned to or used by an identifiable individual or group of individuals may not be disclosed except to a parent or custodian of a minor child seeking access to that child's records, to persons acting within the scope of their duties in the administration of the library, to persons authorized in writing by the individual or group of individuals to inspect such records, or by order of a court of law.

B. Notwithstanding any provisions of this Chapter or any other law to the contrary, records of any such library which are maintained for purposes of registration or for determining eligibility for the use of library services may not be disclosed except as provided in Subsection A of this Section.

C. No provision of this Section shall be so construed as to prohibit or hinder any library or any business office operating jointly with a library from collecting overdue books, documents, films, or other items and/or materials owned or otherwise belonging to such library, nor shall any provision of this Section be so construed as to prohibit or hinder any such library or business office from collecting fines on such overdue books, documents, films, or other items and/or materials.

D. No provision of this Section shall be so construed as to prohibit or hinder any library or librarian from providing information to appropriate law enforcement officers investigating criminal activity in the library witnessed by an employee or patron of the library and reported by the administrative librarian to the appropriate law enforcement officials.

(1) The term "criminal activity in the library", as used in this Subsection, shall mean an activity which constitutes a crime, or otherwise constitutes an offense or violation of any law or ordinance, occurring:

(a) Within any library building,

(b) Upon any library property, or

(c) Near a library and the proximity of such activity to a library or library property constitutes an element of the offense.

(2) The term "information", as used in this Subsection shall include but not be limited to electronic data files, security surveillance video tapes, or other records or materials which may constitute evidence which would assist law enforcement officers in identifying the individual or group of individuals who may have committed criminal activity in the library.

Added by Acts 1983, No. 523, §1; Acts 1991, No. 938, §4; Acts 2001, No. 528, §1.

§14. Insurance, health and accident; list of insured to be provided to department

A. Every person authorized to issue a hospital or medical expense policy, a hospital or medical service contract, an employee welfare benefit plan, a health and accident insurance policy, or any other insurance contract of this type in this state, including a group insurance plan, a self insurance plan, and the Louisiana State Employees Uniform Group Benefits Program, shall provide to the Department of Health and Hospitals information on their insureds, either in the form of a printed list, a computer printout, or electronic or data processing tapes, pursuant to rules and regulations established by the secretary, so that the department can determine if any of the insureds are persons who have received services from the department and on whose behalf the department may be entitled to receive insurance benefits. This information shall be provided monthly and once received by the department shall be confidential information in the same manner as other confidential information of the department.

B. The provisions of this Section shall not apply to any insured whose indemnity policy benefits pay less than twenty-five dollars a day in hospital or medical benefits.

Acts 1986, No. 866, §2; HCR No. 211, 1988 R.S., eff. July 8, 1988.

§15. Medical records of persons applying for disability retirement through any state or statewide public retirement system or pension plan or fund

A. All medical records, application forms, doctor's reports and evaluations, agency certifications, and all other health records of persons applying for disability retirement from any state or statewide public retirement system or pension plan or fund pursuant to the provisions of the applicable laws governing disability retirement for these systems, plans, or funds, and all regulations promulgated pursuant thereto, which are in the custody or control of the board of trustees of any state or statewide public retirement system or pension plan or fund or any duly appointed representative thereof, are exempt from the provisions of this Chapter.

B. All other records pertaining to membership in or retirement under any state or statewide public retirement system or pension plan or fund which are in the custody or control of the board of trustees of any state or statewide public retirement system or pension plan or fund or any duly appointed representative thereof, are subject to the provisions of this Chapter.

Added by Acts 1988, No. 295, §1, eff. July 7, 1988.

§16. Personal data records for certain members of public retirement systems, plans, or funds

A. All records of retired members of public retirement systems, plans, or funds or of members who are participating in or who have participated in the Deferred Retirement Option Plan are exempt from the provisions of this Chapter except for the amount of the retired member's retirement allowance, final average compensation, and years of creditable service, and the names of the agencies with which he was employed and the dates of such employment.

B. The exemption for records of retired members of the public retirement systems, plans, or funds or members who are participating in or who have participated in the Deferred Retirement Option Plan provided in Subsection A of this Section shall not apply to requests for such records by members of the Louisiana Legislature, by any state agency or employer reporting information to the public retirement

systems, plans, or funds, or by any association of individuals receiving a retirement allowance or benefit from the public retirement systems, plans, or funds.

Acts 1991, No. 365, §1; Acts 1992, No. 945, §1; Acts 1995, No. 271, §1, eff. July 1, 1995.

§17. Immunization records; definitions; disclosure; liability; procedures

A. Definitions

As used in this Section:

- (1) "Minor" means a person who is seventeen years old or younger or who is not legally emancipated.
- (2) "Patient" means a natural person who receives health care from a licensed health care provider under a contract, expressed or implied.
- (3) "Private health care provider" means:
 - (a) A physician, surgeon, licensed registered or licensed practical nurse, and any employee of a physician or surgeon acting within the course and scope of employment and who is not providing health care services by or on behalf of the state.
 - (b) A resident, intern, or student of, or any person who is otherwise qualified in a discipline listed in Subparagraph (a) of this Paragraph when the person is acting within the course and scope of the training or staff appointment in and under the supervision of the health care providers listed in Subparagraph (a) of this Paragraph.
- (4) "Representative of a patient" means a person who is a parent, tutor, curator, spouse, trustee, attorney, or other legal agent of the patient and who is authorized, by and on behalf of the patient, to exercise any of the patient's rights or privileges.
- (5) "State health care provider" means a state health care provider as defined in R.S. 40:1299.39.

B. Information and records pertaining to the immunization status of persons against childhood diseases as required by R.S. 17:170 and R.S. 40:4(A)(2), may be disclosed and exchanged with verbal consent of the patient or his representative and without a patient's, or his representative's, written release authorizing such disclosure, to any of the following:

- (1) State health care provider.
- (2) Private health care provider.
- (3) Representative of a patient.
- (4) A patient who is not a minor.

C. If any person authorized in Subsection B discloses such information for any purpose other than for administering or receiving vaccinations, such disclosure shall be considered as an unauthorized release of confidential information, and such person shall be liable for civil damages.

D. The Department of Health and Hospitals shall promulgate rules and regulations, in accordance with the Administrative Procedure Act, to establish procedures whereby immunization information may be released from one health care provider to another.

Acts 1995, No. 521, §2, eff. Jan. 1, 1996.

§18. Geophysical survey information

All information and records of geophysical or geological surveys furnished to the State Mineral Board or the office of mineral resources pursuant to R.S. 30:213 shall be confidential and exempt from the provisions of this Chapter.

Acts 2000, 2d Ex. Sess., No. 8, §2.

§19. Autopsy photographs, video, and other visual images

A. Notwithstanding any other provision of law to the contrary, photographs, video, or other visual images, in whatever form, of or relating to an autopsy conducted under the authority of the office of the coroner shall be confidential, are deemed not to be public records, and shall not be released by the office of the coroner or any officer, employee, or agent thereof except as otherwise provided in this Section.

B. Nothing in this Section shall prevent the release of autopsy photographs, video, or other visual images, in whatever form, of or relating to an autopsy conducted under the authority of the office of the coroner as follows:

- (1) To a family member of the deceased or his designee;
- (2) To the succession representative of the deceased's estate or his designee;
- (3) To a law enforcement agency, for official use only; or
- (4) As directed by a court order or subpoena.

C. Nothing in this Section shall prevent the inspection of photographs, video, or other visual images, in whatever form, of or relating to an autopsy.

Acts 2001, No. 117, §1.

§20. Records of discharge from armed forces

A. Upon the presentation of the discharge certificate or other evidence, the clerks of court of the several parishes and the register of conveyances of the parish of Orleans shall record in their records without charge, each discharge certificate or other evidence of honorable separation from the armed

forces of the United States of men and women who have served in the forces. It shall not be necessary to retain original discharge papers in the archives of the office.

B. Any discharge certificate or other evidence of honorable separation from the armed forces of the United States filed on or after July 1, 2000, shall be confidential, shall not be considered as public record under R.S. 44:1 et seq., and shall not be released or shown to any person except:

(1) To the veteran or his designee.

(2) If the veteran is deceased, to the executor of his estate or to the surviving spouse or any family member of the veteran, upon furnishing a death certificate, affidavit of death, or other satisfactory evidence of the death of the veteran.

C. Notwithstanding the provisions of R.S. 44:31 and R.S. 44:32, the clerks of court of the several parishes and the register of conveyances of the parish of Orleans shall make available to the public any discharge certificate or other evidence of honorable separation from the armed forces of the United States filed prior to July 1, 2000. The clerks of court and the register shall not make copies of such record for a person who requests such record, unless the person who requests such record appears in person in the office of the appropriate clerk of court or the register and provides his full name and address to the clerk or register. The clerks of court and the register shall not make such record available to the public on any website.

Acts 2003, No. 316, §1, eff. June 13, 2003; Acts 2004, No. 758, §1, eff. July 1, 2004. NOTE: See Acts 2003, No. 316, §3, relative to remedial nature and applicability.

§21. Municipal fire and police civil service; test materials confidential

Notwithstanding any other provision of law to the contrary, all tests and all records, the content of which includes or indicates actual content or answers for tests which are prepared, administered, or scored by the office of state examiner, municipal fire and police civil service, shall be confidential and shall not be released by any person except for:

(1) The production and exhibition by the state examiner of test questions, answers, and papers to a local civil service board as required by R.S. 33:2492 or 2552, provided that such production and exhibition and any discussion of such materials shall occur in executive session as authorized by R.S. 42:6.1.

(2) As necessary for the actual administration of the test.

Acts 2003, No. 336, §2, eff. June 13, 2003.

§22. Economic development negotiations

A. Notwithstanding any other provision of this Chapter to the contrary, records in the custody of the Department of Economic Development pertaining to an active negotiation with a person for the purpose of retaining, expanding, or attracting economic or business development in the state shall be confidential and shall not be subject to the provisions of R.S. 44:31, 32, or 33, if the person requests such confidentiality in writing detailing the reasons such person requests confidentiality and asserting

that the negotiation is conditioned in whole or in part on the maintenance of such confidentiality, and the secretary of the Department of Economic Development determines that the disclosure of such records would have a detrimental effect on the negotiation. Each determination by the secretary shall include his reasons for such determination. The secretary shall publish in the official journal of the state a notice containing general information regarding each negotiation to which records are confidential pursuant to this Section, no later than ten days after the determination of confidentiality. Such notice shall include the date of the secretary's determination. Records of expenses of the department pertaining to the negotiation shall be public and subject to review, except that the secretary may redact information that he determines would identify or lead to the identification of the person with whom the department is negotiating and such information shall be confidential until the negotiations are concluded. However, immediately upon the conclusion of the negotiation, all such records shall be subject to the provisions of this Chapter.

B. No information made confidential pursuant to Subsection A of this Section shall remain confidential for more than twelve months from the date of the secretary's determination of confidentiality; however, if the negotiation remains active and the secretary makes a new determination that the disclosure of the information would be detrimental to the negotiations and gives notice as provided in Subsection A of this Section, such information shall remain confidential while the negotiation remains active, not to exceed an additional twelve months. Under no circumstances shall information made confidential pursuant to this Section remain confidential for more than twenty-four months from the date of the initial determination of the secretary.

C. For the purposes of this Section, "active negotiation" or "negotiation remains active" shall mean a negotiation which has commenced when the Department of Economic Development provides a response to a request for information or other similar document from a person who is requesting assistance in the retention, expansion, or location of a business in this state and which is not concluded. For the purposes of this Section, a negotiation is no longer active or is concluded when the Department of Economic Development decides to no longer actively pursue the retention, expansion, or location of such business in this state; when the person with whom the department was negotiating decides not to pursue the retention, expansion, or location of such business in this state; or when a proposal affecting the negotiation is submitted to a public body for consideration by the public body in a public meeting, whichever occurs earlier.

D. The provisions of Subsection A of this Section shall not apply to any application for a license or permit or to any record of negotiations concerning any hazardous waste or waste site, as "hazardous waste" and "waste" are defined in R.S. 30:2173.

E. The provisions of this Section shall have no effect unless the party whose information is being maintained confidential maintains as confidential any information provided to the party by the Department of Economic Development in response to a request for assistance in the retention, expansion, or location of a business in the state and which is a negotiation and which remains an active negotiation.

F. The provisions of this Section shall be void and have no effect beginning with any negotiations that begin on or after July 1, 2012.

Acts 2004, No. 669, §1, eff. July 5, 2004; Acts 2008, No. 450, §1, eff. June 25, 2008.

§23. Department of Transportation and Development; preconstruction estimates

Notwithstanding the provisions of R.S. 44:31, 32, or 33, a preconstruction estimate for a project advertised and let or for a project to be advertised and let by the Department of Transportation and Development shall not be available for examination, inspection, copying, or reproduction until the date that the bids for such project are opened. If the custodian of such a record receives a request for a preconstruction estimate prior to the date the bids for such project are opened, the custodian shall notify the requestor that the record is not available and shall specify the date that the record will be available. Notwithstanding the provisions of this Section, the estimated cost range for a department project shall be available, upon request.

Acts 2006, No. 321, §1, eff. June 13, 2006.

§23.1. Department of Transportation and Development; exception for certain sensitive security information or critical infrastructure information

A. Except as otherwise provided in Subsection B of this Section, nothing in this Chapter shall be construed to require disclosure of records of the Department of Transportation and Development, including without limitation the Sabine River Authority, state of Louisiana, containing sensitive security information or critical infrastructure information.

B. The provisions of Subsection A of this Section shall not be construed, interpreted, or enforced in any manner to prohibit a member of the legislature in the performance of his official duties from inspecting or examining any record in the custody of the Department of Transportation and Development.

C. For purposes of this Section, the following terms shall have the following meanings:

(1) "Critical infrastructure" shall mean a transportation facility or asset that is so vital to the state of Louisiana that the incapacity or destruction of the facility or asset would have a debilitating impact on the security, economy, public health, or public safety of the state.

(2) "Sensitive security information" shall mean security procedures, criminal intelligence information pertaining to terrorist-related activity, or threat or vulnerability assessments created, collected, or obtained in the prevention of terrorist-related activity, including but not limited to physical security information or critical infrastructure information, proprietary information, operational plans, and the analysis of such information, or internal security information.

Acts 2008, No. 693, §1, eff. July 1, 2008.

PART II. GENERAL PROVISIONS

§31. Right to examine records

A. Providing access to public records is a responsibility and duty of the appointive or elective office of a custodian and his employees.

B.(1) Except as otherwise provided in this Chapter or as otherwise specifically provided by law, and in accordance with the provisions of this Chapter, any person of the age of majority may inspect, copy, or reproduce any public record.

(2) Except as otherwise provided in this Chapter or as otherwise specifically provided by law, and in accordance with the provisions of this Chapter, any person may obtain a copy or reproduction of any public record.

(3) The burden of proving that a public record is not subject to inspection, copying, or reproduction shall rest with the custodian.

Amended by Acts 1978, No. 686, §1; Acts 1999, No. 1154, §1; Acts 2004, No. 759, §1.

§31.1. Exceptions; authority of the custodian

For the purposes of this Chapter, person does not include an individual in custody after sentence following a felony conviction who has exhausted his appellate remedies when the request for public records is not limited to grounds upon which the individual could file for post-conviction relief under Code of Criminal Procedure Article 930.3. Notwithstanding the provisions contained in R.S. 44:32, the custodian may make an inquiry of any individual who applies for a public record to determine if such individual is in custody after sentence following a felony conviction who has exhausted his appellate remedies and the custodian may make any inquiry necessary to determine if the request of any such individual in custody for a felony conviction is limited to grounds upon which such individual may file for post-conviction relief under Code of Criminal Procedure Article 930.3.

Acts 1995, No. 653, §1.

§31.2. Public records awareness program

The attorney general shall establish a program for educating the general public, public bodies, and custodians regarding the provisions of this Chapter. Such program may include brochures, pamphlets, videos, seminars, and Internet access to information which provides training on the provisions of this Chapter, including the custodian's responsibilities in connection with a request for records and the right of a person to institute court proceedings if access to a record is denied by the custodian.

Acts 1999, No. 1154, §1.

§32. Duty to permit examination; prevention of alteration; payment for overtime; copies provided; fees

A. The custodian shall present any public record to any person of the age of majority who so requests. The custodian shall make no inquiry of any person who applies for a public record, except an inquiry as to the age and identification of the person and may require the person to sign a register and shall not review, examine or scrutinize any copy, photograph, or memoranda in the possession of any such person; and shall extend to the person all reasonable comfort and facility for the full exercise of the right granted by this Chapter; provided that nothing herein contained shall prevent the custodian from maintaining such vigilance as is required to prevent alteration of any record while it is being examined; and provided further, that examinations of records under the authority of this Section must be conducted during regular office or working hours, unless the custodian shall authorize examination of records in other than regular office or working hours. In this event the persons designated to represent the custodian during such examination shall be entitled to reasonable compensation to be paid to them by the public body having custody of such record, out of funds provided in advance by the person examining such record in other than regular office or working hours.

B. If any record contains material which is not a public record, the custodian may separate the nonpublic record and make the public record available for examination.

C. (1) (a) For all public records, except public records of state agencies, it shall be the duty of the custodian of such public records to provide copies to persons so requesting. The custodian may establish and collect reasonable fees for making copies of public records. Copies of records may be furnished without charge or at a reduced charge to indigent citizens of this state.

(b) For all public records in the custody of a clerk of court, the clerk may also establish reasonable uniform written procedures for the reproduction of any such public record. Additionally, in the parish of Orleans, the recorder of mortgages, the register of conveyances, and the custodian of notarial records may each establish reasonable uniform procedures for the reproduction of public records.

(c) The use or placement of mechanical reproduction, microphotographic reproduction, or any other such imaging, reproduction, or photocopying equipment within the offices of the clerk of court by any person described in R.S. 44:31 is prohibited unless ordered by a court of competent jurisdiction.

(d) Any person, as provided for in R.S. 44:31, may request a copy or reproduction of any public record and it shall be the duty of the custodian to provide such copy or reproduction to the person so requesting.

(2) For all public records of state agencies, it shall be the duty of the custodian of such records to provide copies to persons so requesting. Fees for such copies shall be charged according to the uniform fee schedule adopted by the commissioner of administration, as provided by R.S. 39:241.

Copies shall be provided at fees according to the schedule, except for copies of public records the fees for the reproduction of which are otherwise fixed by law. Copies of records may be furnished without charge or at a reduced charge to indigent citizens of this state or the persons whose use of such copies, as determined by the custodian, will be limited to a public purpose, including but not limited to use in a hearing before any governmental regulatory commission.

(3) No fee shall be charged to any person to examine or review any public records, except as provided in this Section, and no fee shall be charged for examination or review to determine if a record is subject to disclosure, except as may be determined by a court of competent jurisdiction.

D. In any case in which a record is requested and a question is raised by the custodian of the record as to whether it is a public record, such custodian shall within three days, exclusive of Saturdays, Sundays, and legal public holidays, of the receipt of the request, in writing for such record, notify in writing the person making such request of his determination and the reasons therefor. Such written notification shall contain a reference to the basis under law which the custodian has determined exempts a record, or any part thereof, from inspection, copying, or reproduction.

Amended by Acts 1968, No. 473, §1; Acts 1978, No. 686, §1; Acts 1981, No. 933, §2; Acts 1989, No. 404, §1, eff. June 30, 1989; Acts 1995, No. 372, §2, eff. July 1, 1995; Acts 1999, No. 1154, §1; Acts 2004, No. 759, §1; Acts 2005, No. 193, §2. NOTE: See Acts 2005, No. 193, §3, requiring removal from clerks' offices of privately owned imaging equipment no later than 30 days after August 15, 2005.

§33. Availability of records

A. (1) When a request is made for a public record to which the public is entitled, the official, clerks of court and the custodian of notarial records in and for the parish of Orleans excepted, who has responsibility for the record shall have the record segregated from other records under his custody so that the public can reasonably view the record.

(2) If, however, segregating the record would be unreasonably burdensome or expensive, or if the record requested is maintained in a fashion that makes it readily identifiable and renders further segregation unnecessary, the official shall so state in writing and shall state the location of the requested record.

B.(1) If the public record applied for is immediately available, because of its not being in active use at the time of the application, the public record shall be immediately presented to the authorized person applying for it. If the public record applied for is not immediately available, because of its being in active use at the time of the application, the custodian shall promptly certify this in writing to the applicant, and in his certificate shall fix a day and hour within three days, exclusive of Saturdays, Sundays, and legal public holidays, for the exercise of the right granted by this Chapter.

(2) The fact that the public records are being audited shall in no case be construed as a reason or justification for a refusal to allow inspection of the records except when the public records are in active use by the auditor.

Amended by Acts 1978, No. 686, §1; Acts 1982, No. 567, §1.

§34. Absence of records

If any public record applied for by any authorized person is not in the custody or control of the person to whom the application is made, such person shall promptly certify this in writing to the applicant, and shall in the certificate state in detail to the best of his knowledge and belief, the reason for the absence of the record from his custody or control, its location, what person then has custody of the record and the manner and method in which, and the exact time at which it was taken from his custody or control.

He shall include in the certificate ample and detailed answers to inquiries of the applicant which may facilitate the exercise of the right granted by this Chapter.

Amended by Acts 1978, No. 686, §1.

§35. Enforcement

A. Any person who has been denied the right to inspect or copy a record under the provisions of this Chapter, either by a final determination of the custodian or by the passage of five days, exclusive of Saturdays, Sundays, and legal public holidays, from the date of his request without receiving a final determination in writing by the custodian, may institute proceedings for the issuance of a writ of mandamus, injunctive or declaratory relief, together with attorney's fees, costs and damages as provided for by this Section, in the district court for the parish in which the office of the custodian is located.

B. In any suit filed under Subsection A above, the court has jurisdiction to enjoin the custodian from withholding records or to issue a writ of mandamus ordering the production of any records improperly withheld from the person seeking disclosure. The court shall determine the matter de novo and the burden is on the custodian to sustain his action. The court may view the documents in controversy in camera before reaching a decision. Any noncompliance with the order of the court may be punished as contempt of court.

C. Any suit brought in any court of original jurisdiction to enforce the provisions of this Chapter shall be tried by preference and in a summary manner. Any appellate courts to which the suit is brought shall place it on its preferential docket and shall hear it without delay, rendering a decision as soon as practicable.

D. If a person seeking the right to inspect or to receive a copy of a public record prevails in such suit, he shall be awarded reasonable attorney's fees and other costs of litigation. If such person prevails in part, the court may in its discretion award him reasonable attorney's fees or an appropriate portion thereof.

E. (1) If the court finds that the custodian arbitrarily or capriciously withheld the requested record or unreasonably or arbitrarily failed to respond to the request as required by R.S. 44:32, it may award the requester any actual damages proven by him to have resulted from the actions of the custodian except as hereinafter provided. In addition, if the court finds that the custodian unreasonably or arbitrarily failed to respond to the request as required by R.S. 44:32 it may award the requester civil penalties not to exceed one hundred dollars per day, exclusive of Saturdays, Sundays, and legal public holidays for each such day of such failure to give notification.

(2) The custodian shall be personally liable for the payment of any such damages, and shall be liable in solido with the public body for the payment of the requester's attorney fees and other costs of litigation, except where the custodian has withheld or denied production of the requested record or records on advice of the legal counsel representing the public body in which the office of such custodian is located, and in the event the custodian retains private legal counsel for his defense or for bringing suit against the requester in connection with the request for records, the court may award attorney fees to the custodian.

F. An award for attorney fees in any suit brought under the provisions of this Chapter shall not exceed the amounts approved by the attorney general for the employment of outside counsel.

Amended by Acts 1978, No. 686, §1; Acts 1988, No. 336, §1; Acts 1999, No. 1154, §1.

§36. Preservation of records

A. All persons and public bodies having custody or control of any public record, other than conveyance, probate, mortgage, or other permanent records required by existing law to be kept for all time, shall exercise diligence and care in preserving the public record for the period or periods of time specified for such public records in formal records retention schedules developed and approved by the state archivist and director of the division of archives, records management, and history of the Department of State. However, in all instances in which a formal retention schedule has not been executed, such public records shall be preserved and maintained for a period of at least three years from the date on which the public record was made. However, where copies of an original record exist, the original alone shall be kept; when only duplicate copies of a record exist, only one copy of the duplicate copies shall be required to be kept. Where an appropriate form of the microphotographic process has been utilized to record, file, and otherwise preserve such public records with microforms produced in compliance with the provisions of R.S. 44:415, the microforms shall be deemed originals in themselves, as provided by R.S. 44:39(B), and disposition of original documents which have been microphotographically preserved and of duplicates and other copies thereof shall proceed as provided in R.S. 44:411.

B. All existing records or records hereafter accumulated by the Department of Revenue may be destroyed after five years from the thirty-first day of December of the year in which the tax to which the records pertain became due; provided that these records shall not be destroyed in any case where there is a contest relative to the payment of taxes or where a claim has been made for a refund or where litigation with reference thereto is pending.

C. All existing records or records hereafter accumulated by the various services of the state or its subdivisions which participate in federal programs or receive federal grants may be destroyed after three years from the date on which the records were made in those cases where this provision is not superseded by guidelines for the operative federal program or grant requiring longer retention periods for the records in question; provided that these records shall not be destroyed in any case where litigation with reference thereto is pending, or until the appropriate state or federal audits have been conducted.

D. All existing records or records hereafter accumulated by the Department of Public Safety and Corrections, Corrections Services, pertaining to any adult offender may not be destroyed until after ten years from the date the full term sentence imposed upon such offender expires.

E. (1) The public records of a prosecuting agency, pertaining to a criminal prosecution that results in a conviction, in a manner other than a plea, shall be retained for a period of three years from the date on which a court of appeal affirms the conviction, the Louisiana Supreme Court denies writs, or the Louisiana Supreme Court makes its final ruling on the appeal, whichever occurs last.

(2) The provisions of this Subsection shall not apply to any records expunged as provided by law.

(3) Nothing in this Subsection shall be construed in any manner to affect or alter the provisions of R.S. 44:3 regarding the records of prosecuting agencies.

Amended by Acts 1950, No. 134, §1; Acts 1954, No. 473, §1; Acts 1978, No. 43, §1; Acts 1983, 1st Ex. Sess., No. 11, §1, eff. Jan. 19, 1983; Acts 1986, No. 1075, §1; Acts 1991, No. 310, §1; Acts 1997, No. 1269, §1, eff. July 15, 1997; Acts 2003, No. 322, §1.

§37. Penalties for violation by custodians of records

Any person having custody or control of a public record, who violates any of the provisions of this Chapter, or any person not having such custody or control who by any conspiracy, understanding or cooperation with any other person hinders or attempts to hinder the inspection of any public records declared by this Chapter to be subject to inspection, shall upon first conviction be fined not less than one hundred dollars, and not more than one thousand dollars, or shall be imprisoned for not less than one month, nor more than six months. Upon any subsequent conviction he shall be fined not less than two hundred fifty dollars, and not more than two thousand dollars, or imprisoned for not less than two months, nor more than six months, or both.

§38. Access to records involved in legislative studies

Notwithstanding any other law to the contrary, the custodian of records of the Department of Social Services, office of community services, and the custodian of records of each juvenile court or any court which hears and decides juvenile matters shall grant access to a percentage, as specified by the legislative committee, of the total records of defined classes of children in state custody or in foster care to any committee of the legislature acting pursuant to an appropriate legislative instrument directing the committee to study procedures or outcomes of cases involving children in state custody or in foster care. The size of the specific group to be studied shall be large enough to preserve the anonymity of individual children. Such access shall be limited to that purpose, and all information regarding names or other identifiers shall be removed. Information pertaining to children who have been adopted shall be strictly confidential and shall be released only in accordance with existing laws.

Acts 1999, No. 1267, §1.

§39. Microfilm and electronic digitized records; use as evidence

A.(1) All persons and public bodies having custody or control of any public records of the state of Louisiana or any of its subdivisions may utilize any appropriate form of the microphotographic process, or an electronic digitizing process capable of reproducing an unalterable image of the original source document, for the recordation, filing, and preservation of all existing public records, forms, and documents or records, forms, and documents hereafter accumulated which pertain to their functions and operations in order to maintain efficient and economical records management programs and to conserve storage space, provided that the use of such microphotographic or electronic digitizing processes are not otherwise prohibited by law and that all microforms produced comply with standards established by the division of archives, records management, and history of the Department of State in accordance with the provisions of R.S. 44:415.

(2)(a) However, when electronic digitizing is utilized, the original source document or microfilm of such source document shall be maintained until such time as electronic digitizing is recognized as an acceptable means of records preservation.

(b) Notwithstanding the provisions of this Subsection, the agencies and entities set forth in this Subparagraph shall not be required to maintain the original source document or microfilm thereof when such document has been preserved utilizing electronic digitizing pursuant to written operating standards providing for retention and back-up schedules in accordance with recognized computer operating practices which at a minimum provide the technical equivalent of back-up copies:

(i) Public safety services within the Department of Public Safety and Corrections.

(ii) All public retirement systems, plans, and funds.

(iii) Any further exceptions to the provision to maintain original source documents or microfilm thereof under this Subsection must be approved in writing by the state archivist.

B. Any microfilm or electronically digitized copy, when satisfactorily identified, shall be deemed to be an original itself, and shall be admissible in evidence in all courts or administrative proceedings in any agency, whether the original document is in existence or not, and an enlargement or facsimile of a reproduction is likewise admissible in evidence, if the original reproduction is in existence and available for inspection under direction of the court or the administrative agency. Original records shall remain subject to subpoena.

Amended by Acts 1950, No. 134, §1; Acts 1978, No. 364, §1; Acts 1986, No. 1075, §1; Acts 1987, No. 621, §1; Acts 1997, No. 373, §1; Acts 1998, 1st Ex. Sess., No. 73, §1, eff. May 1, 1998; Acts 1999, No. 301, §1, eff. July 1, 1999.

§40. Additional copies of records by microphotographic process; purchase of equipment; funds available for payment; copies of suit records

A. The several clerks of court and ex officio recorders and registers of conveyances and recorders of mortgages, throughout the state, are hereby authorized at their option to make additional copies, by means of the microphotographic process, of all original acts and/or records thereof, including criminal records, of every nature and kind in their custody by virtue of their various official capacities as such clerks of court and ex officio recorders and registers of conveyances and recorders of mortgages, filed or recorded in their offices prior to July 29, 1964 and subsequent thereto.

B. Such clerks of court and ex officio recorders and registers are hereby authorized to purchase the necessary microphotographic equipment and equipment used to retrieve from storage microfilm copies, to lease such equipment or to contract with competent independent contractors, or both, according to the discretion of said clerks of court and ex officio recorders and registers, to cause the records described in this section to be copied and reproduced by means of the microphotographic process.

C. Each such clerk of court and ex officio recorder and register is hereby authorized to defray the cost of copying, reproducing and retrieving the records described in this section, including the cost of microphotographic and retrieval equipment and services, out of any funds available in the clerk's salary fund.

D. In the parish of Orleans the judges of the civil district court and the criminal district court, and in the remainder of the state the respective police juries or other governing authorities of the several parishes, are authorized to provide the necessary funds, when such funds are not already available, to enable said clerk of courts and ex officio recorders and registers to carry out the provisions of this section.

E. The several clerks of court, including the clerks of the Criminal or Civil District Courts for the parish of Orleans, shall make and retain in their custody, by means of the microphotographic process, a copy of all original criminal and civil records of every nature and kind, which are deemed permanent under a record retention and disposal schedule adopted by the secretary of state and the clerks of court in accordance with R.S. 44:410, and which have been in their custody for a period of five or more years. The clerks of court may then destroy the original criminal records and any other records, the destruction of which is authorized by R.S. 13:917, which have been so copied and retained. However, all records in suits affecting records relating to immovable property, or adoption, interdiction, successions, trusts, or emancipation, shall be retained in their original form, even though they have been copied as provided herein.

F. Five years after rendition of a final judgment from which no appeal may be taken, in any suit, except suits affecting records relating to immovable property, adoption, interdiction, successions, trusts or emancipation, the clerk of court, including the clerk of the Criminal or Civil District Court in the parish of Orleans, shall transfer at the direction of the state archivist all permanent records in the suit to the Department of State, as custodian of the official archives of the state, for safe and secure storage, service, restoration, and preservation. The state archivist shall establish a schedule by which all suit records heretofore accumulated by various clerks of court shall be transferred. The schedule shall include provisions for transfer from the parishes, in alphabetical order, of records from the years 1699 through 1921, to be completed by December 31, 1980, and for transfer, in the same order, of records from the years since 1921 in which the final judgment was rendered prior to September 8, 1973, to be completed by December 31, 1981. Upon receipt, the department shall make reproductions of the original records by the microphotographic process, retain a master negative thereof, and transmit to the sending clerk a copy of the reproductions of the records. The department shall maintain the confidentiality of any records, or parts thereof, which are so classified by law. Thereafter, notwithstanding the provisions of R.S. 44:421, the department shall not make or authenticate copies or reproductions of those records but, upon receipt of any request for service or of any inquiry relating to those records, the department shall forward the request or inquiry to the appropriate clerk of court, who may render the necessary services and charge the appropriate fees, as provided in R.S. 13:841 or 844, or in Orleans Parish by R.S. 13:1213 or 1381.

The provisions of this Subsection shall not apply to any records, the destruction of which is authorized by Subsection E of this section or by R.S. 13:917.

Acts 1958, No. 350, §§1 to 4. Amended by Acts 1964, No. 415, §1; Acts 1972, No. 498, §§1, 2; Acts 1978, No. 365, §1; Acts 1978, No. 396, §1.

§41. Receiving and filing map, plat, etc. for record

A. After September 1, 1970, no clerk of court, recorder of mortgages or register of conveyances, or any other public authority shall receive and file for record any map, plat, or survey attached to and pertaining to the sale or mortgage of property, when such map, plat, or survey is required by either party, which does not have impressed thereon, and affixed thereto, the signature and seal or stamp of a

professional land surveyor duly licensed in accordance with the provisions of Chapter 8 of Title 37 of the Louisiana Revised Statutes of 1950 by whom or under whose responsible charge said map, plat, survey, or other document was prepared.

B. Failure to comply with the provisions of this Section shall not invalidate any title to real property otherwise legally valid.

Acts 1970, No. 532, §1; Acts 2003, No. 279, §7.