

SENATE BILL NO. 364—SENATOR ATKINSON

MARCH 18, 2013

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing governmental administration. (BDR 19-185)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to governmental administration; removing the requirement that each governmental agency ensure that any personal information contained in certain documents is either maintained in a confidential manner or removed from the document; removing the requirement that the board of county commissioners in certain larger counties establish in certain cities a branch office of the county clerk at which marriage licenses may be issued; revising provisions governing certain documents relating to marriage; prohibiting certain solicitations on county property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits, with certain exceptions, a governmental agency from requiring a person to include personal information on any document submitted to the governmental agency on or after January 1, 2007. On or before January 1, 2017, each governmental agency is required to ensure that any personal information contained in a document submitted to that agency before January 1, 2007, is either maintained in a confidential manner or removed from the document. (NRS 239B.030) **Section 1** of this bill authorizes rather than requires each governmental agency to ensure that any personal information contained in a document submitted to that agency before January 1, 2007, is either maintained in a confidential manner or removed from the document.

Existing law requires the board of county commissioners in a county whose population is 700,000 or more (currently Clark County) to designate one branch office of the county clerk at which marriage licenses may be issued and establish that office in an incorporated city whose population is 220,000 or more but less than 500,000 (currently the City of Henderson). Existing law also authorizes the board to designate, at the request of the county clerk, not more than four additional



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branch offices of the county clerk at which marriage licenses can be issued. (NRS 122.040) **Section 2** of this bill removes the requirement to establish a branch office at which marriage licenses can be issued in an incorporated city whose population is 220,000 or more but less than 500,000 and allows the board to designate, at the request of the county clerk, not more than five branch offices at which marriage licenses may be issued.

Sections 3-5 of this bill revise provisions governing certain documents relating to the authority to solemnize marriages.

Existing law prohibits any person, while on county courthouse property, from soliciting another person to be married by a marriage commissioner or justice of the peace or at a commercial wedding chapel. (NRS 122.215) **Section 7** of this bill extends this prohibition to all county property.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 239B.030 is hereby amended to read as follows:

239B.030 1. Except as otherwise provided in subsections 2 and 6, a person shall not include and a governmental agency shall not require a person to include any personal information about a person on any document that is recorded, filed or otherwise submitted to the governmental agency on or after January 1, 2007.

2. If personal information about a person is required to be included in a document that is recorded, filed or otherwise submitted to a governmental agency on or after January 1, 2007, pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant, a governmental agency shall ensure that the personal information is maintained in a confidential manner and may only disclose the personal information as required:

(a) To carry out a specific state or federal law; or

(b) For the administration of a public program or an application for a federal or state grant.

➔ Any action taken by a governmental agency pursuant to this subsection must not be construed as affecting the legality of the document.

3. A governmental agency shall take necessary measures to ensure that notice of the provisions of this section is provided to persons with whom it conducts business. Such notice may include, without limitation, posting notice in a conspicuous place in each of its offices.

4. A governmental agency may require a person who records, files or otherwise submits any document to the governmental agency to provide an affirmation that the document does not contain personal information about any person or, if the document contains



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1 any such personal information, identification of the specific law,
2 public program or grant that requires the inclusion of the personal
3 information. A governmental agency may refuse to record, file or
4 otherwise accept a document which does not contain such an
5 affirmation when required or any document which contains personal
6 information about a person that is not required to be included in the
7 document pursuant to a specific state or federal law, for the
8 administration of a public program or for an application for a federal
9 or state grant.

10 5. ~~{On or before January 1, 2017, each}~~ **Each** governmental
11 agency ~~{shall}~~ **may** ensure that any personal information contained
12 in a document that has been recorded, filed or otherwise submitted
13 to the governmental agency before January 1, 2007, which the
14 governmental agency continues to hold is:

15 (a) Maintained in a confidential manner if the personal
16 information is required to be included in the document pursuant to a
17 specific state or federal law, for the administration of a public
18 program or for an application for a federal or state grant; or

19 (b) Obliterated or otherwise removed from the document, by any
20 method, including, without limitation, through the use of computer
21 software, if the personal information is not required to be included
22 in the document pursuant to a specific state or federal law, for the
23 administration of a public program or for an application for a federal
24 or state grant.

25 ➔ Any action taken by a governmental agency pursuant to this
26 subsection must not be construed as affecting the legality of the
27 document.

28 6. A person may request that a governmental agency obliterate
29 or otherwise remove from any document submitted by the person to
30 the governmental agency before January 1, 2007, any personal
31 information about the person contained in the document that is not
32 required to be included in the document pursuant to a specific state
33 or federal law, for the administration of a public program or for an
34 application for a federal or state grant or, if the personal information
35 is so required to be included in the document, the person may
36 request that the governmental agency maintain the personal
37 information in a confidential manner. If any documents that have
38 been recorded, filed or otherwise submitted to a governmental
39 agency:

40 (a) Are maintained in an electronic format that allows the
41 governmental agency to retrieve components of personal
42 information through the use of computer software, a request
43 pursuant to this subsection must identify the components of personal
44 information to be retrieved. The provisions of this paragraph do not



1 require a governmental agency to purchase computer software to
2 perform the service requested pursuant to this subsection.

3 (b) Are not maintained in an electronic format or not maintained
4 in an electronic format in the manner described in paragraph (a), a
5 request pursuant to this subsection must describe the document with
6 sufficient specificity to enable the governmental agency to identify
7 the document.

8 ➔ The governmental agency shall not charge any fee to perform the
9 service requested pursuant to this subsection.

10 7. As used in this section:

11 (a) "Governmental agency" means an officer, board,
12 commission, department, division, bureau, district or any other unit
13 of government of the State or a local government.

14 (b) "Personal information" has the meaning ascribed to it in
15 NRS 603A.040.

16 **Sec. 2.** NRS 122.040 is hereby amended to read as follows:

17 122.040 1. Before persons may be joined in marriage, a
18 license must be obtained for that purpose from the county clerk of
19 any county in the State. Except as otherwise provided in this
20 subsection, the license must be issued at the county seat of that
21 county. The board of county commissioners:

22 (a) In a county whose population is 700,000 or more ~~+~~:

23 ~~— (1) Shall designate one branch office of the county clerk at~~
24 ~~which marriage licenses may be issued and shall establish and~~
25 ~~maintain the designated branch office in an incorporated city whose~~
26 ~~population is 220,000 or more but less than 500,000; and~~

27 ~~— (2) May, in addition to the branch office described in~~
28 ~~subparagraph (1) +~~ **may**, at the request of the county clerk, designate
29 not more than ~~four~~ **five** branch offices of the county clerk at which
30 marriage licenses may be issued, if the designated branch offices are
31 located outside of the county seat.

32 (b) In a county whose population is less than 700,000 may, at
33 the request of the county clerk, designate one branch office of the
34 county clerk at which marriage licenses may be issued, if the
35 designated branch office is established in a county office building
36 which is located outside of the county seat.

37 2. Except as otherwise provided in this section, before issuing a
38 marriage license, the county clerk shall require each applicant to
39 provide proof of the applicant's name and age. The county clerk
40 may accept as proof of the applicant's name and age an original or
41 certified copy of any of the following:

42 (a) A driver's license, instruction permit or identification card
43 issued by this State or another state, the District of Columbia or any
44 territory of the United States.

45 (b) A passport.



(c) A birth certificate and:

(1) Any secondary document that contains the name and a photograph of the applicant; or

(2) Any document for which identification must be verified as a condition to receipt of the document.

➡ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that provides the applicant's name and age. If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.

3. Except as otherwise provided in subsection 4, the county clerk issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk shall, except as otherwise provided in this subsection, require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. The county clerk shall not deny a license to an applicant who states that the applicant does not have a social security number or who states that any requested information concerning the applicant's parents is unknown.

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk, the county clerk may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk, or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk. If the district court waives the requirements of subsection 3, the district court shall notify the county clerk in writing. If the county clerk or the district court waives the requirements of subsection 3, the county clerk shall require the applicant who is able to appear before the county clerk to:



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1 (a) Answer under oath each of the questions contained in the
2 form of license. The applicant shall answer any questions with
3 reference to the other person named in the license.

4 (b) Include the applicant's social security number and the social
5 security number of the other person named in the license on the
6 affidavit of application for the marriage license. If either person
7 does not have a social security number, the person responding to the
8 question must state that fact. The county clerk shall not require any
9 evidence to verify a social security number.

10 ➔ If any of the information required on the application is unknown
11 to the person responding to the question, the person must state that
12 the answer is unknown. The county clerk shall not deny a license to
13 an applicant who states that the applicant does not have a social
14 security number or who states that any requested information
15 concerning the parents of either the person who is responding to the
16 question or the person who is unable to appear is unknown.

17 5. If any of the persons intending to marry are under age and
18 have not been previously married, and if the authorization of a
19 district court is not required, the clerk shall issue the license if the
20 consent of the parent or guardian is:

21 (a) Personally given before the clerk;

22 (b) Certified under the hand of the parent or guardian, attested
23 by two witnesses, one of whom must appear before the clerk and
24 make oath that the witness saw the parent or guardian subscribe his
25 or her name to the annexed certificate, or heard him or her
26 acknowledge it; or

27 (c) In writing, subscribed to and acknowledged before a person
28 authorized by law to administer oaths. A facsimile of the
29 acknowledged writing must be accepted if the original is not
30 available.

31 6. If a parent giving consent to the marriage of a minor
32 pursuant to subsection 5 has a last name different from that of the
33 minor seeking to be married, the county clerk shall accept, as proof
34 that the parent is the legal parent of the minor, a certified copy of the
35 birth certificate of the minor which shows the parent's first and
36 middle name and which matches the first and middle name of the
37 parent on any document listed in subsection 2.

38 7. If the authorization of a district court is required, the county
39 clerk shall issue the license if that authorization is given to the
40 county clerk in writing.

41 8. All records pertaining to marriage licenses are public records
42 and open to inspection pursuant to the provisions of NRS 239.010.

43 9. A marriage license issued on or after July 1, 1987, expires 1
44 year after its date of issuance.



Sec. 3. NRS 122.066 is hereby amended to read as follows:

122.066 1. The Secretary of State shall establish and maintain a statewide database of ministers or other persons authorized to solemnize a marriage. The database must:

(a) Serve as the official list of ministers or other persons authorized to solemnize a marriage approved in this State;

(b) Provide for a single method of storing and managing the official list;

(c) Be a uniform, centralized and interactive database;

(d) Be electronically secure and accessible to each county clerk in this State;

(e) Contain the name, mailing address and other pertinent information of each minister or other person authorized to solemnize a marriage as prescribed by the Secretary of State; and

(f) Include a unique identifier assigned by the Secretary of State to each minister or other person authorized to solemnize a marriage.

2. If the county clerk approves an application for a certificate of permission to perform marriages, the county clerk shall:

(a) Enter all information contained in the application into the electronic statewide database of ministers or other persons authorized to solemnize a marriage maintained by the Secretary of State not later than 10 days after the certificate of permission to perform marriages is approved by the county clerk; and

(b) Provide to the Secretary of State all information related to the minister or other person authorized to solemnize a marriage pursuant to paragraph (e) of subsection 1.

3. Upon approval of an application pursuant to subsection 2, the minister or other person authorized to solemnize a marriage:

(a) Shall comply with the laws of this State governing the solemnization of marriage and conduct of ministers or other persons authorized to solemnize a marriage;

(b) Is subject to further review or investigation by the county clerk to ensure that he or she continues to meet the statutory requirements for a person authorized to solemnize a marriage; and

(c) Shall provide the county clerk with any changes to his or her status or information, including, without limitation, the address or telephone number of the church or religious organization or any other information pertaining to certification.

4. A certificate of permission is valid until the county clerk has received an affidavit of ~~revocation~~ *removal* of authority to solemnize marriages pursuant to NRS 122.0665 ~~+~~ *or the certificate of permission is revoked pursuant to NRS 122.068.*

5. An affidavit of ~~revocation~~ *removal* of authority to solemnize marriages that is received pursuant to subsection 4 must be sent to the county clerk within 5 days after the minister or other



1 person authorized to solemnize a marriage ceased to be a member of
2 the church or religious organization in good standing or ceased to be
3 a minister or other person authorized to solemnize a marriage for the
4 church or religious organization.

5 6. If the county clerk in the county where the certificate of
6 permission was issued has reason to believe that the minister or
7 other person authorized to solemnize a marriage is no longer in good
8 standing within his or her church or religious organization, or that
9 he or she is no longer a minister or other person authorized to
10 solemnize a marriage, or that such church or religious organization
11 no longer exists, the county clerk may require satisfactory proof of
12 the good standing of the minister or other person authorized to
13 solemnize a marriage. If such proof is not presented within 15 days,
14 the county clerk shall ~~revoke~~ **remove** the certificate of permission
15 by amending the electronic record of the minister or other person
16 authorized to solemnize a marriage in the statewide database
17 pursuant to subsection 1.

18 7. Except as otherwise provided in subsection 8, if any minister
19 or other person authorized to solemnize a marriage to whom a
20 certificate of permission has been issued severs ties with his or her
21 church or religious organization or moves from the county in which
22 his or her certificate was issued, the certificate shall expire
23 immediately upon such severance or move, and the church or
24 religious organization shall, within 5 days after the severance or
25 move, file an affidavit of ~~revocation~~ **removal** of authority to
26 solemnize marriages pursuant to NRS 122.0665. If the minister or
27 other person authorized to solemnize a marriage voluntarily advises
28 the county clerk of the county in which his or her certificate was
29 issued of his or her severance with his or her church or religious
30 organization, or that he or she has moved from the county, the
31 certificate shall expire immediately upon such severance or move
32 without any notification to the county clerk by the church or
33 religious organization.

34 8. If any minister or other person authorized to solemnize a
35 marriage, who is retired and to whom a certificate of permission has
36 been issued, moves from the county in which his or her certificate
37 was issued to another county in this State, the certificate remains
38 valid until such time as the certificate otherwise expires or is
39 **removed or** revoked as prescribed by law. The minister or other
40 person authorized to solemnize a marriage must provide his or her
41 new address to the county clerk in the county to which the minister
42 or other person authorized to solemnize a marriage has moved.

43 9. The Secretary of State may adopt regulations concerning the
44 creation and administration of the statewide database. This section
45 does not prohibit the Secretary of State from making the database



publicly accessible for the purpose of viewing ministers or other persons who are authorized to solemnize a marriage in this State.

Sec. 4. NRS 122.0665 is hereby amended to read as follows:

122.0665 1. If a minister or other person authorized to solemnize a marriage is no longer authorized to solemnize a marriage by the church or religious organization that authorized the minister or other person to solemnize marriages when he or she applied for a certificate of permission to perform marriages pursuant to NRS 122.064, the church or religious organization shall, within 5 days after the authorization is terminated, file an affidavit of ~~revocation~~ **removal** of authority to solemnize marriages with the county clerk of the county where the original affidavit of authority to solemnize marriages was filed.

2. The affidavit of ~~revocation~~ **removal** of authority to solemnize marriages must be in substantially the following form:

AFFIDAVIT OF ~~REVOCATION~~ **REMOVAL** OF
AUTHORITY TO SOLEMNIZE MARRIAGES

State of Nevada }
County of } ss.

The..... (name of church or religious organization) is organized and carries on its work in the State of Nevada. Its active meetings are located at..... (street address, city or town). The..... (name of church or religious organization) hereby ~~revokes~~ **removes** the authority of..... (name of minister or other person authorized to solemnize marriages), filed in the County of....., on the..... day of the month of....., of the year....., to solemnize marriages.

I am duly authorized by..... (name of church or religious organization) to complete and submit this affidavit.

.....
Signature of Official

.....
Name of Official
(type or print name)



Title of Official

Address

City, State and Zip Code

Telephone Number

Signed and sworn to (or affirmed) before me this.....
day of the month of..... of the year.....

Notary Public for
..... County, Nevada.

My appointment expires

Sec. 5. NRS 122.068 is hereby amended to read as follows:

122.068 1. Any county clerk who has issued a certificate of permission to perform marriages to a minister or other person authorized to solemnize a marriage pursuant to NRS 122.062 to 122.073, inclusive, may revoke the certificate for good cause shown after a hearing.

2. If the certificate of permission to perform marriages of any minister or other person authorized to solemnize a marriage is revoked **or if the county clerk has received an affidavit of removal of authority to solemnize marriages pursuant to NRS 122.0665**, the county clerk shall inform the Secretary of State of that fact, and the Secretary of State shall immediately remove the name of the minister or other person authorized to solemnize a marriage from the official list contained in the database of ministers or other persons authorized to solemnize a marriage and shall notify each county clerk and county recorder in the State of the revocation **or removal of authority**.

Sec. 6. NRS 122.185 is hereby amended to read as follows:

122.185 The office of the commissioner of civil marriages and each room therein shall prominently display on the wall, or other appropriate place, a sign informing all people who avail themselves of the services of the commissioner of civil marriages of the following facts:

1. That the solemnization of the marriage by the commissioner of civil marriages is not necessary for a valid marriage and that the parties wishing to be married may have a justice of the peace within



1 a township where such justice of the peace is permitted to perform
2 marriages, or any minister or other person authorized to solemnize a
3 marriage of their choice who holds a valid certificate of permission
4 to perform marriages within the State, perform the ceremony;

5 2. The amount of the fee to be charged for solemnization of a
6 marriage ~~including any extra charge to be made for solemnizing a~~
7 ~~marriage after regular working hours~~ in the office of the
8 commissioner of civil marriages;

9 3. That all fees charged are paid into the county general fund of
10 the particular county involved;

11 4. That other than the statutory fee, the commissioner of civil
12 marriages and the deputy commissioners of civil marriages are
13 precluded by law from receiving any gratuity fee or remuneration
14 whatsoever for solemnizing a marriage; and

15 5. That if the commissioner of civil marriages, any deputy
16 commissioner of civil marriages, or any other employee in the office
17 of the commissioner or in the office of the county clerk solicits such
18 an extra gratuity fee or other remuneration, the matter should be
19 reported to the district attorney for such county.

20 **Sec. 7.** NRS 122.215 is hereby amended to read as follows:

21 122.215 It is unlawful for any county employee, commercial
22 wedding chapel employee or other person to solicit or otherwise
23 influence, while on county ~~fourthouse~~ property, any person to be
24 married by a marriage commissioner or justice of the peace or at a
25 commercial wedding chapel.

26 **Sec. 8.** This act becomes effective on July 1, 2013.

