

ASSEMBLY BILL NO. 42—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 16, 2016

Referred to Committee on Government Affairs

SUMMARY—Revises various provisions relating to public records.
(BDR 19-389)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 public records; categorizing the exemptions to the disclosure of public books and public records; authorizing governmental entities to request the inspection and copying of the public books and public records of other governmental entities; authorizing a person to apply for and the Committee to Approve Schedules for the Retention and Disposition of Official State Records to issue nonbinding advisory opinions regarding the denial of certain requests for public books and public records; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, all public books and public records of a state or local
2 governmental entity, the contents of which are not otherwise declared by law to be
3 confidential, are required to be open at all times during office hours for inspection
4 and copying by the public. (NRS 239.010) In addition to a balancing test in case
5 law which is applied when existing law is silent with respect to the confidentiality
6 of a book or record, certain public books and public records are exempt from
7 disclosure pursuant to specific statutory provisions that prohibit the disclosure of or
8 specifically declare those public books and public records to be confidential.
9 (*Donrey of Nev., Inc. v. Bradshaw*, 106 Nev. 630 (1990)) These specific statutory
10 exemptions are listed in Nevada's public records law. (NRS 239.010) The Freedom
11 of Information Act is a federal law which, similar to Nevada's public records law,
12 requires public officials to make certain information and records available to the
13 public. The Freedom of Information Act creates categories of information and



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records to which the Freedom of Information Act does not apply, in addition to the federal statutes which specifically exempt certain matters from disclosure. (5 U.S.C. § 552) **Sections 2-10** of this bill reorganize the list of statutory exemptions to Nevada's public records law into categories modeled on the categories of information and records which are exempt from disclosure under the Freedom of Information Act. **Section 12** of this bill makes a conforming change.

Unless otherwise defined in another provision in Nevada Revised Statutes, the words and terms defined in the preliminary chapter of Nevada Revised Statutes apply throughout Nevada Revised Statutes. (Preliminary chapter of NRS) In the preliminary chapter, the term "person" excludes a governmental entity. (NRS 0.039) **Section 11** of this bill includes a governmental entity within the definition of "person" for the purposes of Nevada's public records law, thereby authorizing a governmental entity to request the inspection or copying of the public books and public records of other governmental entities. **Sections 12-19 and 21-23** of this bill make conforming changes to: (1) clarify that the term "person" refers to the requester of a public book or public record and the term "a public officer or employee" refers to an officer or employee of the governmental entity from which a book or record has been requested for inspection or copying; and (2) exclude a governmental entity from the term "person" where appropriate.

Section 15 of this bill specifies that the immunity from civil damages granted in existing law to a public officer or employee who acts in good faith in disclosing or refusing to disclose information and to the employer of the public officer or employee includes attorney's fees.

The Committee to Approve Schedules for the Retention and Disposition of Official State Records was created under existing law to review and approve or disapprove the schedules for the retention and disposition of the official state records that agencies of the Executive Department of the State Government are required to develop and to advise the Division of State Library, Archives and Public Records of the Department of Administration regarding those schedules. (NRS 239.073-239.080) Under existing law, if a person's request for the inspection or copying of a public book or public record has been denied by a governmental entity, the person is authorized to apply to a court for an order allowing the person to inspect or copy the book or record. (NRS 239.011) In addition to the authority to request a court order, **section 14** of this bill authorizes a person whose request to inspect or copy a public book or public record of an agency of the Executive Department of the State Government has been denied to apply to the Committee to Approve Schedules for the Retention and Disposition of Official State Records for a nonbinding advisory opinion on whether the agency's basis for denying the request was sufficiently articulated. **Section 20** of this bill authorizes the Committee to issue such an opinion.

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

Section 1. Chapter 239 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *The provisions of subsection 1 of NRS 239.010 do not apply to public books and public records which are declared by law to be confidential as books and records authorized to be kept secret in the interest of public safety or homeland security,*



1 *including, without limitation, NRS 239C.140, 239C.210, 239C.250,*
2 *239C.270, 242.105, 331.110, 388.259, 394.1698 and 463.790.*

3 **Sec. 3.** *The provisions of subsection 1 of NRS 239.010 do not*
4 *apply to public books and public records which are declared by*
5 *law to be confidential as books and records related solely to the*
6 *internal personnel rules and practices of a governmental entity,*
7 *including, without limitation, NRS 281.195.*

8 **Sec. 4.** *The provisions of subsection 1 of NRS 239.010 do not*
9 *apply to public books and public records which are declared by*
10 *law to be confidential as trade secrets and commercial and*
11 *financial information obtained from a person and which are*
12 *privileged and confidential, including, without limitation, NRS*
13 *75A.100, 75A.150, 76.160, 81.850, 90.730, 91.160, 119.260,*
14 *119.280, 119A.280, 119B.370, 231.069, 231.1473, 244.264,*
15 *244.335, 268.095, 268.490, 268.910, 271A.105, 293B.135, 332.061,*
16 *332.351, 333.333, 333.335, 338.1379, 338.16925, 338.1727,*
17 *349.597, 349.775, 360.247, 360.755, 365.138, 366.160, 368A.180,*
18 *394.460, 408.3886, 439B.420, 445A.665, 445B.570, 449.209,*
19 *459.050, 459.3866, 459.555, 459.7056, 459.846, 463.15993,*
20 *561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110,*
21 *599B.090, 603.070, 616B.015, 616B.350, 639.570, 647.0945,*
22 *647.0947, 679B.152, 680A.270, 681B.410, 681B.540, 692A.117,*
23 *692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615,*
24 *696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230 and*
25 *711.600 and sections 35 and 38 of chapter 478, Statutes of Nevada*
26 *2011.*

27 **Sec. 5.** *The provisions of subsection 1 of NRS 239.010 do not*
28 *apply to public books and public records which are declared by*
29 *law to be confidential as inter-agency or intra-agency*
30 *memorandums or letters that would not be available by law to a*
31 *party other than a governmental entity in litigation with the*
32 *governmental entity, including, without limitation, NRS 41.071,*
33 *49.095, 119.260, 119A.280, 119A.370, 120A.690, 127.130,*
34 *127.2817, 176.156, 176.0625, 178.39801, 218E.625, 218F.150,*
35 *218G.130, 218G.240, 218G.350, 228.270, 233.190, 281A.350,*
36 *281A.440, 281A.550, 338.1725, 353.205, 353A.085, 353A.100,*
37 *361.610, 387.626, 387.631, 394.447, 398.403, 408.3885, 408.3888,*
38 *408.5484, 427A.1236, 450.140, 482.5536, 574.053, 639.0745,*
39 *640C.745, 648.197, 679B.122, 679B.285, 686C.306, 687A.110,*
40 *687A.115 and 710.159.*

41 **Sec. 6.** *The provisions of subsection 1 of NRS 239.010 do not*
42 *apply to public books and public records which are declared by*
43 *law to be confidential as personnel and medical files and similar*
44 *files, the disclosure of which would constitute a clearly*
45 *unwarranted invasion of personal privacy, including, without*



1 *limitation, NRS 1.4683, 1.4687, 1A.110, 62D.420, 62D.440,*
2 *62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220,*
3 *62H.320, 78.152, 80.113, 82.183, 86.246, 86.54615, 87.515,*
4 *87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067,*
5 *88A.345, 88A.7345, 89.045, 89.251, 119.267, 125.130, 125B.140,*
6 *126.161, 126.163, 126.730, 127.007, 127.057, 127.140, 130.712,*
7 *159.044, 176.015, 176A.630, 178.4715, 179A.450, 200.5095,*
8 *202.3662, 205.4651, 209.392, 209.3925, 209.521, 211A.140,*
9 *213.010, 213.040, 213.095, 213.131, 217.105, 217.475, 228.450,*
10 *228.495, 228.570, 239.0105, 239B.030, 239B.040, 239B.050,*
11 *239C.230, 240.007, 241.030, 284.4068, 286.110, 287.0438,*
12 *289.025, 293.503, 293.558, 293D.510, 338.070, 348.420, 353C.240,*
13 *360.240, 360.255, 372A.080, 379.008, 385A.830, 385B.100,*
14 *388.501, 388.503, 388.513, 391.035, 392.029, 392.147, 392.264,*
15 *392.271, 392.850, 394.167, 394.465, 396.525, 396.535, 412.153,*
16 *422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.872,*
17 *432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.560,*
18 *433.534, 433A.360, 439.840, 440.170, 441A.195, 441A.220,*
19 *441A.230, 442.330, 442.395, 449.245, 449.720, 453.164, 453.720,*
20 *453A.610, 453A.700, 458.055, 458.280, 463.3403, 467.1005,*
21 *481.063, 482.170, 483.575, 483.659, 483.800, 485.316, 503.452,*
22 *603A.210, 612.265, 616B.012, 618.425, 622.310, 623.131,*
23 *623A.137, 624.110, 624.265, 628B.230, 629.047, 629.069, 630.133,*
24 *630.30665, 630A.555, 632.121, 632.125, 633.283, 633.301,*
25 *633.524, 634.055, 634A.185, 635.158, 637.085, 637B.288, 638.087,*
26 *640C.400, 641.090, 641B.170, 641C.760, 642.524, 643.189,*
27 *644.446, 645.180, 645B.092, 645C.220, 645D.130, 645E.375,*
28 *645H.320, 648.033, 649.065, 654.110, 656.105, 669.285, 669A.310,*
29 *677.243, 679B.159, 681A.440, 683A.0873 and 688C.230, section*
30 *41 of chapter 478, Statutes of Nevada 2011, and section 2 of*
31 *chapter 391, Statutes of Nevada 2013.*

32 **Sec. 7.** *The provisions of subsection 1 of NRS 239.010 do not*
33 *apply to public books and public records which are declared by*
34 *law to be confidential as records or information compiled for law*
35 *enforcement purposes, but only to the extent that the production of*
36 *such law enforcement records or information:*

37 *1. Could reasonably be expected to interfere with*
38 *enforcement proceedings;*

39 *2. Would deprive a person of a right to a fair trial or an*
40 *impartial adjudication;*

41 *3. Could reasonably be expected to constitute an unwarranted*
42 *invasion of personal privacy;*

43 *4. Could reasonably be expected to disclose the identity of a*
44 *confidential source, including a State, local or foreign agency or*
45 *authority or any private institution which furnished information*



1 on a confidential basis, and, in the case of a record or information
2 compiled by a criminal law enforcement authority in the course of
3 a criminal investigation or by an agency conducting a lawful
4 national security intelligence investigation, information furnished
5 by a confidential source;

6 5. Would disclose techniques and procedures for law
7 enforcement investigations or prosecutions or would disclose
8 guidelines for law enforcement investigations or prosecutions, if
9 such disclosure could reasonably be expected to risk
10 circumvention of the law; or

11 6. Could reasonably be expected to endanger the life or
12 physical safety of any natural person,

13 including, without limitation, NRS 116.757, 116A.270,
14 116B.880, 118B.026, 119.265, 119A.653, 119B.382, 176.09129,
15 178.5691, 179.495, 179A.165, 179D.160, 200.3771, 200.604,
16 209.419, 217.110, 241.039, 289.830, 480.365, 483.340, 624.327,
17 625.425, 625A.185, 628.418, 628B.760, 630.336, 631.368, 632.405,
18 634.214, 636.107, 638.089, 639.2485, 640.075, 640A.220,
19 640B.730, 640C.760, 640D.190, 640E.340, 641A.191, 645.625,
20 645A.082, 645C.225, 645D.135, 645G.510, 645H.330, 649.067,
21 652.228, 679B.190, 679B.690, 686A.289, 688C.480 and 688C.490.

22 Sec. 8. The provisions of subsection 1 of NRS 239.010 do not
23 apply to public books and public records which are declared by
24 law to be confidential as books and records contained in or related
25 to examination, operating or condition reports prepared by, on
26 behalf of or for the use of a governmental entity responsible for
27 the regulation or supervision of financial institutions, including,
28 without limitation, NRS 604A.710, 661.115, 665.130, 665.133,
29 669.275, 671.170, 673.430 and 675.380.

30 Sec. 9. The provisions of subsection 1 of NRS 239.010 do not
31 apply to public books and public records which are declared by
32 law to be confidential as geographic information relating to
33 demographics, natural resources, agriculture, food and the
34 environment, including, without limitation, NRS 237.300, 250.087,
35 522.040 and 534A.031.

36 Sec. 10. The provisions of subsection 1 of NRS 239.010 do
37 not apply to public books and public records to which sections 2 to
38 9, inclusive, of this act do not apply and which are otherwise
39 declared by law to be confidential, including, without limitation,
40 NRS 126.141, 130.312, 136.050, 172.075, 172.245, 179A.070,
41 200.3772, 217.464, 218A.350, 239.0113, 241.020, 250.130,
42 250.140, 250.150, 289.080, 289.387, 293.5002, 353A.049, 361.044,
43 378.290, 378.300, 388.1455, 388.750, 396.3295, 396.405, 416.070,
44 432B.430, 463.120, 463.240, 463.3407, 483.363, 484E.070,



616B.315, 618.341, 645A.050, 645B.060, 645E.300, 676A.340, 676A.370, 681B.260, 686B.170, 687C.010 and 692C.190.

Sec. 11. NRS 239.005 is hereby amended to read as follows:

239.005 As used in this chapter, unless the context otherwise requires:

1. "Actual cost" means the direct cost related to the reproduction of a public record. The term does not include a cost that a governmental entity incurs regardless of whether or not a person requests a copy of a particular public record.

2. "Agency of the Executive Department" means an agency, board, commission, bureau, council, department, division, authority or other unit of the Executive Department of the State Government. The term does not include the Nevada System of Higher Education.

3. "Committee" means the Committee to Approve Schedules for the Retention and Disposition of Official State Records.

4. "Division" means the Division of State Library, Archives and Public Records of the Department of Administration.

5. "Governmental entity" means:

(a) An elected or appointed officer of this State or of a political subdivision of this State;

(b) An institution, board, commission, bureau, council, department, division, authority or other unit of government of this State, including, without limitation, an agency of the Executive Department, or of a political subdivision of this State;

(c) A university foundation, as defined in NRS 396.405; or

(d) An educational foundation, as defined in NRS 388.750, to the extent that the foundation is dedicated to the assistance of public schools.

6. "Official state record" includes, without limitation:

(a) Papers, unpublished books, maps and photographs;

(b) Information stored on magnetic tape or computer, laser or optical disc;

(c) Materials that are capable of being read by a machine, including, without limitation, microforms and audio and visual materials; and

(d) Materials that are made or received by a state agency and preserved by that agency or its successor as evidence of the organization, operation, policy or any other activity of that agency or because of the information contained in the material.

7. "**Person**" means:

(a) *A natural person.*

(b) *Any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or unincorporated organization.*



(c) A governmental entity.

8. "Privatization contract" means a contract executed by or on behalf of a governmental entity which authorizes a private entity to provide public services that are:

(a) Substantially similar to the services provided by the public employees of the governmental entity; and

(b) In lieu of the services otherwise authorized or required to be provided by the governmental entity.

9. "Public officer or employee" means a person who:

(a) Is an employee, agent or independent contractor of a governmental entity;

(b) Is elected or appointed to a position which is established by the Constitution or a statute of this State, or by a charter or ordinance of a political subdivision of this State; or

(c) Otherwise serves as an officer for a governmental entity.

Sec. 12. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and

~~NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008,~~



1 ~~385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,~~
2 ~~388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147,~~
3 ~~392.264, 392.271, 392.850, 394.167, 394.1698, 394.447, 394.460,~~
4 ~~394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,~~
5 ~~408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749,~~
6 ~~422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872,~~
7 ~~432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430,~~
8 ~~432B.560, 433.534, 433A.360, 439.840, 439B.420, 440.170,~~
9 ~~441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665,~~
10 ~~445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720,~~
11 ~~453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866,~~
12 ~~459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240,~~
13 ~~463.3403, 463.3407, 463.790, 467.1005, 480.365, 481.063, 482.170,~~
14 ~~482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070,~~
15 ~~485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655,~~
16 ~~587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070,~~
17 ~~603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315,~~
18 ~~616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110,~~
19 ~~624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230,~~
20 ~~628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336,~~
21 ~~630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301,~~
22 ~~633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,~~
23 ~~637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,~~
24 ~~640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190,~~
25 ~~640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524,~~
26 ~~643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082,~~
27 ~~645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135,~~
28 ~~645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945,~~
29 ~~647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110,~~
30 ~~656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310,~~
31 ~~671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243,~~
32 ~~679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690,~~
33 ~~680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873,~~
34 ~~685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115,~~
35 ~~687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190,~~
36 ~~692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615,~~
37 ~~696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230,~~
38 ~~710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of~~
39 ~~Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013~~
40 ~~and unless otherwise declared by law to be confidential,] **sections 2**~~
41 ~~**to 10, inclusive, of this act,** all public books and public records of a~~
42 ~~governmental entity must be open at all times during office hours to~~
43 ~~inspection by any person, and may be fully copied or an abstract or~~
44 ~~memorandum may be prepared from those public books and public~~
45 ~~records. Any such copies, abstracts or memoranda may be used to~~



1 supply the general public with copies, abstracts or memoranda of the
2 records or may be used in any other way to the advantage of the
3 governmental entity or of the general public.

4 2. This section does not supersede or in any manner affect the
5 federal laws governing copyrights or enlarge, diminish or affect in
6 any other manner the rights of a person in any written book or
7 record which is copyrighted pursuant to federal law.

8 ~~12.1~~ A governmental entity may not reject a book or record
9 which is copyrighted solely because it is copyrighted.

10 3. A governmental entity that has legal custody or control of a
11 public book or record shall not deny a request made pursuant to
12 subsection 1 to inspect or copy or receive a copy of a public book or
13 record on the basis that the requested public book or record contains
14 information that is confidential if the governmental entity can
15 redact, delete, conceal or separate the confidential information from
16 the information included in the public book or record that is not
17 otherwise confidential.

18 4. A person may request a copy of a public record in any
19 medium in which the public record is readily available. ~~1A.1~~ A
20 public officer ~~1.1~~ or employee ~~for agent~~ of a governmental entity
21 ~~1who1~~ that has legal custody or control of a public record:

22 (a) Shall not refuse to provide a copy of that public record in a
23 readily available medium because the public officer ~~1.1~~ or employee
24 ~~for agent~~ has already prepared or would prefer to provide the copy
25 in a different medium.

26 (b) Except as otherwise provided in NRS 239.030, shall, upon
27 request, prepare the copy of the public record and shall not require
28 the person who has requested the copy to prepare the copy himself
29 or herself.

30 **Sec. 13.** NRS 239.0107 is hereby amended to read as follows:

31 239.0107 1. Not later than the end of the fifth business day
32 after the date on which ~~the person who~~ a public officer or
33 employee of a governmental entity that has legal custody or control
34 of a public book or record ~~of a governmental entity~~ receives a
35 written or oral request from a person to inspect, copy or receive a
36 copy of the public book or record, ~~1a1~~ the governmental entity shall
37 do one of the following, as applicable:

38 (a) Except as otherwise provided in subsection 2, allow the
39 person to inspect or copy the public book or record or, if the request
40 is for the person to receive a copy of the public book or record,
41 provide such a copy to the person.

42 (b) If the governmental entity does not have legal custody or
43 control of the public book or record, provide to the person, in
44 writing:

45 (1) Notice of that fact; and



(2) The name and address of the governmental entity that has legal custody or control of the public book or record, if known.

(c) Except as otherwise provided in paragraph (d), if the governmental entity is unable to make the public book or record available by the end of the fifth business day after the date on which the ~~person who has legal custody or control of the public book or record~~ *public officer or employee of the governmental entity* received the request, provide to the person, in writing:

(1) Notice of that fact; and

(2) A date and time after which the public book or record will be available for the person to inspect or copy or after which a copy of the public book or record will be available to the person. If the public book or record or the copy of the public book or record is not available to the person by that date and time, the person may inquire regarding the status of the request.

(d) If the governmental entity must deny the person's request because the public book or record, or a part thereof, is confidential, provide to the person, in writing:

(1) Notice of that fact; and

(2) A citation to the specific statute or other legal authority that makes the public book or record, or a part thereof, confidential.

2. If a public book or record of a governmental entity is readily available for inspection or copying, ~~the person who has legal custody or control of the public book or record~~ *a public officer or employee of the governmental entity* shall allow a person who has submitted a request to inspect, copy or receive a copy of a public book or record.

Sec. 14. NRS 239.011 is hereby amended to read as follows:

239.011 1. If a request for inspection, copying or copies of a public book or record open to inspection and copying is denied, the ~~requester~~ *person who submitted the request* may apply :

(a) If the request was denied by an agency of the Executive Department, to the Committee for a nonbinding advisory opinion regarding whether the basis for denying the request provided pursuant to NRS 239.0107 was sufficiently articulated; or

(b) If the request was denied by any governmental entity and regardless of whether an application was submitted pursuant to paragraph (a), to the district court in the county in which the book or record is located for an order:

~~(a)~~ (1) Permitting the ~~requester~~ *person* to inspect or copy the book or record; or

~~(b)~~ (2) Requiring the ~~person who~~ *governmental entity that* has legal custody or control of the public book or record to provide a copy to the ~~requester~~ *person who submitted the request*,

↪ as applicable.



2. The court shall give ~~this~~ a matter *for which an application was received pursuant to paragraph (b) of subsection 1* priority over other civil matters to which priority is not given by other statutes. ~~It~~ *Except as otherwise provided in NRS 239.012, if the requester person who submitted the request* prevails, the ~~requester~~ *person* is entitled to recover his or her costs and reasonable attorney's fees in the proceeding from the governmental entity ~~whose officer~~ *that* has *legal* custody *or control* of the book or record.

Sec. 15. NRS 239.012 is hereby amended to read as follows:

239.012 A public officer or employee who acts in good faith in disclosing or refusing to disclose information and the employer of the public officer or employee are immune from liability for damages, *including attorney's fees*, either to the ~~requester~~ *person who submitted the request* or to the person whom the information concerns.

Sec. 16. NRS 239.020 is hereby amended to read as follows:

239.020 Whenever a copy of any public record is required by the Department of Veterans Affairs to be used in determining the eligibility of any person to participate in benefits made available by the Department of Veterans Affairs, the ~~official-charged~~ *governmental entity* with the *legal* custody *or control* of such public record shall, without charge, provide the applicant for the benefit or any person acting on behalf of the applicant or the representative of the Department of Veterans Affairs with a certified copy or copies of such records.

Sec. 17. NRS 239.030 is hereby amended to read as follows:

239.030 Every *public* officer *or employee of a governmental entity* having *legal* custody *or control* of public records, the contents of which are not declared by law to be confidential, shall furnish copies certified to be correct to any person who requests them and pays or tenders such fees as may be prescribed for the service of copying and certifying.

Sec. 18. NRS 239.055 is hereby amended to read as follows:

239.055 1. Except as otherwise provided in NRS 239.054 regarding information provided from a geographic information system, if a request for a copy of a public record would require a governmental entity to make extraordinary use of its personnel or technological resources, the governmental entity may, in addition to any other fee authorized pursuant to this chapter, charge a fee not to exceed 50 cents per page for such extraordinary use. Such a request must be made in writing, and upon receiving such a request, the governmental entity shall inform the ~~requester,~~ *person who submitted the request*, in writing, of the amount of the fee before preparing the requested information. The fee charged by the



1 governmental entity must be reasonable and must be based on
2 the cost that the governmental entity actually incurs for the
3 extraordinary use of its personnel or technological resources. The
4 governmental entity shall not charge such a fee if the governmental
5 entity is not required to make extraordinary use of its personnel or
6 technological resources to fulfill additional requests for the same
7 information.

8 2. As used in this section, "technological resources" means any
9 information, information system or information service acquired,
10 developed, operated, maintained or otherwise used by a
11 governmental entity.

12 **Sec. 19.** NRS 239.073 is hereby amended to read as follows:

13 239.073 1. The Committee to Approve Schedules for the
14 Retention and Disposition of Official State Records, consisting of
15 six members, is hereby created.

16 2. The Committee consists of:

17 (a) The Secretary of State;

18 (b) The Attorney General;

19 (c) The Director of the Department of Administration;

20 (d) The State Library, Archives and Public Records
21 Administrator;

22 (e) The Administrator of the Division of Enterprise Information
23 Technology Services of the Department of Administration; and

24 (f) One member who is a representative of the general public
25 appointed by the Governor.

26 ➤ All members of the Committee, except the representative of the
27 general public, are ex officio members of the Committee.

28 3. The Secretary of State or a *natural* person designated by the
29 Secretary of State shall serve as Chair of the Committee. The State
30 Library, Archives and Public Records Administrator shall serve as
31 Secretary of the Committee and prepare and maintain the records of
32 the Committee.

33 4. The Committee shall meet at least quarterly and may meet
34 upon the call of the Chair.

35 5. An ex officio member of the Committee may designate a
36 *natural* person to represent the ex officio member at any meeting of
37 the Committee. The *natural* person designated may exercise all the
38 duties, rights and privileges of the member that the *natural* person
39 represents.

40 6. The Committee may adopt rules and regulations for its
41 management.

42 **Sec. 20.** NRS 239.077 is hereby amended to read as follows:

43 239.077 1. The Committee shall:

44 ~~1.~~ (a) Review and approve or disapprove the schedules for the
45 retention and disposition of the official state records of each agency,



board and commission which is required to develop those schedules pursuant to NRS 239.080.

~~12-1~~ (b) Advise the Division concerning the development and use of schedules for the retention and disposition of official state records.

2. If a person submits an application to the Committee pursuant to paragraph (a) of subsection 1 of NRS 239.011, the Committee may issue a nonbinding advisory opinion regarding whether the basis for denying the request provided pursuant to NRS 239.0107 was sufficiently articulated.

Sec. 21. NRS 239.300 is hereby amended to read as follows:

239.300 A *natural* person who:

1. Steals, embezzles, corrupts, alters, withdraws, falsifies or avoids any record, process, charter, gift, grant, conveyance, bond or contract;

2. Knowingly or willfully, takes off, discharges or conceals any issue, forfeited recognizance or other forfeiture;

3. Forges, defaces or falsifies any document or instrument recorded or filed in any court, or any registered acknowledgment or certificate; or

4. Steals, alters, defaces or falsifies any minute, document, book or any proceedings of or belonging to any public office within this state,

➤ is guilty of a category C felony and shall be punished as provided in NRS 193.130.

Sec. 22. NRS 239.310 is hereby amended to read as follows:

239.310 A *natural* person who willfully and unlawfully removes, alters, mutilates, destroys, conceals or obliterates a record, map, book, paper, document or other thing filed or deposited in a public office, or with any public officer, by authority of law, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

Sec. 23. NRS 239.330 is hereby amended to read as follows:

239.330 A person, *other than a governmental entity*, who knowingly procures or offers any false or forged instrument to be filed, registered or recorded in any public office, which instrument, if genuine, might be filed, registered or recorded in a public office under any law of this State or of the United States, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

Sec. 24. This act becomes effective on July 1, 2017.

