

Amendment No. 483

Senate Amendment to Senate Bill No. 302	(BDR 52-547)
Proposed by: Senate Committee on Commerce and Labor	
Amendment Box: Consistent with Amendment No. 484.	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

SJQ/AAK



Date: 4/18/2019

S.B. No. 302—Revises provisions relating to personal information collected by governmental agencies. (BDR 52-547)



SENATE BILL NO. 302—SENATOR SEEVERS GANSERT

MARCH 18, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to personal information collected by governmental agencies. (BDR 52-547)

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 privacy; requiring a governmental agency to comply , to the extent practicable, with certain standards with respect to the collection, dissemination and maintenance of records containing personal information of a resident of this State; ~~[prohibiting]~~ authorizing a governmental agency ~~[from requiring]~~ to require a person to submit a record containing personal information by electronic means; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a data collector, including a governmental agency, that maintains records which contain personal information of a resident of this State to implement and maintain reasonable security measures to protect such records. (NRS 603A.210) **Section 1** of this bill requires a data collector that is a governmental agency to comply , to the extent practicable, with certain standards published by the Center for Internet Security, Inc. or the National Institute of Standards and Technology of the United States Department of Commerce with respect to the collection, dissemination and maintenance of records containing personal information. Existing law requires the Legislative Auditor to conduct a postaudit of all accounts, funds and other records of all agencies of the State to determine certain information, including the compliance of the agency with applicable laws and regulations. (NRS 218G.200) **Section 2** of this bill specifies that such applicable laws and regulations include, without limitation, the standards regarding records containing personal information set forth in **section 1**.

Existing law authorizes each governmental agency of this State to determine whether, and the extent to which, it will accept electronic records. (NRS 719.350) Existing law prohibits 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, unless required 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. (NRS 239B.030) **Section 3** of this bill ~~[prohibits]~~ authorizes a governmental agency ~~[from requiring]~~ to require a person to submit a document that is required to contain personal information by electronic means. **Section 3 further** authorizes a governmental agency to ~~[accept documents that are required to contain personal information submitted by electronic means so long as the governmental agency accepts equivalent documents submitted in paper form. Section 4 of this bill makes a conforming change.]~~ establish procedures by which a person may apply for and receive a waiver from such a requirement.

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

Section 1. NRS 603A.210 is hereby amended to read as follows:

603A.210 1. A data collector that maintains records which contain personal information of a resident of this State shall implement and maintain reasonable security measures to protect those records from unauthorized access, acquisition, destruction, use, modification or disclosure.

2. *If a data collector is a governmental agency and maintains records which contain personal information of a resident of this State, the data collector shall, to the extent practicable, with respect to the collection, dissemination and maintenance of those records, comply with the current version of the CIS Controls as published by the Center for Internet Security, Inc. or its successor organization, or corresponding standards adopted by the National Institute of Standards and Technology of the United States Department of Commerce.*

3. A contract for the disclosure of the personal information of a resident of this State which is maintained by a data collector must include a provision requiring the person to whom the information is disclosed to implement and maintain reasonable security measures to protect those records from unauthorized access, acquisition, destruction, use, modification or disclosure.

~~3.4~~ 4. If a state or federal law requires a data collector to provide greater protection to records that contain personal information of a resident of this State which are maintained by the data collector and the data collector is in compliance with the provisions of that state or federal law, the data collector shall be deemed to be in compliance with the provisions of this section.

Sec. 2. NRS 218G.200 is hereby amended to read as follows:

218G.200 1. The Legislative Auditor shall perform a postaudit of all accounts, funds and other records of all agencies of the State to determine one or any combination of the following:

(a) Whether the financial statements of the audited agency comply with generally accepted principles of accounting.

(b) The honesty and integrity of fiscal affairs, the accuracy and reliability of information and reports, and the effectiveness of the system of management controls of the audited agency.

(c) Compliance with all applicable laws and regulations ~~to~~, *including, without limitation, compliance with the standards regarding records containing personal information set forth in NRS 603A.210.*

(d) Whether the operations of the agency of the State have been conducted in accordance with its contractual obligations.

(e) Whether control by management and the system of information provide an adequate and efficient system of records and accounting.

2. Every officer and employee of an agency of the State shall aid and assist the Legislative Auditor at such times as the Legislative Auditor requires in the inspection, examination and audit of any books, accounts and records in their possession.

Sec. 3. NRS 239B.030 is hereby amended to read as follows:

239B.030 1. Except as otherwise provided in subsections 2, 3 and ~~6, 7~~ 8, 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,

1 filed or otherwise submitted to the governmental agency on or after January 1,
2 2007.

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

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

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

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

14 3. *If personal information about a person is required to be included in a*
15 *document that is recorded, filed or otherwise submitted to a governmental agency*
16 *on or after January 1, ~~2020~~, 2021, pursuant to a specific state or federal law,*
17 *for the administration of a public program or for an application for a federal or*
18 *state grant, a governmental agency ~~shall not~~ may require a person to record,*
19 *file or otherwise submit such a document by electronic means.*

20 4. A governmental agency may ~~accept documents that are required to~~
21 ~~contain personal information recorded, filed or otherwise submitted by electronic~~
22 ~~means so long as the governmental agency accepts equivalent documents~~
23 ~~recorded, filed or otherwise submitted in paper form using any method of delivery~~
24 ~~used in conventional commercial practice, including, without limitation, delivery~~
25 ~~by hand, mail or commercial delivery.~~ establish procedures by which a person
26 may apply for and receive a waiver from a requirement imposed pursuant to
27 subsection 3. Such procedures must:

28 (a) Authorize the governmental agency to waive a requirement imposed
29 pursuant to subsection 3 for good cause shown;

30 (b) Require such a waiver to be effective for not less than 24 months; and

31 (c) Allow a person who has been granted a waiver to reapply for and obtain
32 additional waivers.

33 ~~[4.]~~ 5. A governmental agency shall take necessary measures to ensure that
34 notice of the provisions of this section is provided to persons with whom it
35 conducts business. Such notice may include, without limitation, posting notice in a
36 conspicuous place in each of its offices.

37 ~~[4.-5.]~~ 6. A governmental agency may require a person who records, files or
38 otherwise submits any document to the governmental agency to provide an
39 affirmation that the document does not contain personal information about any
40 person or, if the document contains any such personal information, identification of
41 the specific law, public program or grant that requires the inclusion of the personal
42 information. A governmental agency may refuse to record, file or otherwise accept
43 a document which does not contain such an affirmation when required or any
44 document which contains personal information about a person that is not required
45 to be included in the document pursuant to a specific state or federal law, for the
46 administration of a public program or for an application for a federal or state grant.

47 ~~[5.-6.]~~ 7. Each governmental agency may ensure that any personal
48 information contained in a document that has been recorded, filed or otherwise
49 submitted to the governmental agency before January 1, 2007, which the
50 governmental agency continues to hold is:

51 (a) Maintained in a confidential manner if the personal information is required
52 to be included in the document 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; or

(b) Obliterated or otherwise removed from the document, by any method, including, without limitation, through the use of computer software, if the personal information is not required to be included in the document 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.

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

~~16-77~~ 8. A person may request that a governmental agency obliterate or otherwise remove from any document submitted by the person to the governmental agency before January 1, 2007, any personal information about the person contained in the document that is not required to be included in the document 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 or, if the personal information is so required to be included in the document, the person may request that the governmental agency maintain the personal information in a confidential manner. If any documents that have been recorded, filed or otherwise submitted to a governmental agency:

(a) Are maintained in an electronic format that allows the governmental agency to retrieve components of personal information through the use of computer software, a request pursuant to this subsection must identify the components of personal information to be retrieved. The provisions of this paragraph do not require a governmental agency to purchase computer software to perform the service requested pursuant to this subsection.

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

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

~~17-87~~ 9. As used in this section:

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

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

Sec. 4. ~~NRS 719.350 is hereby amended to read as follows:~~

~~719.350 1. Except as otherwise provided in subsection 3 of NRS 239B.030, subsection 6 of NRS 719.290 and NRS 719.345, each governmental agency of this state shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use and rely upon electronic records and electronic signatures.~~

~~2. Except as otherwise provided in NRS 719.345, to the extent that a governmental agency uses electronic records and electronic signatures under subsection 1, the governmental agency, giving due consideration to security, may specify:~~

~~(a) The manner and format in which the electronic records must be created, generated, sent, communicated, received and stored and the systems established for those purposes;~~

~~(b) If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that~~

1 ~~must be met by, any third party used by a person filing a document to facilitate the~~
2 ~~process;~~

3 ~~—(c) Processes and procedures as appropriate to ensure adequate preservation,~~
4 ~~disposition, integrity, security, confidentiality and auditability of electronic records;~~
5 ~~and~~

6 ~~—(d) Any other required attributes for electronic records which are specified for~~
7 ~~corresponding nonelectronic records or reasonably necessary under the~~
8 ~~circumstances.~~

9 ~~3. Except as otherwise provided in subsection 6 of NRS 719.290 and NRS~~
10 ~~719.345, the provisions of this chapter do not require a governmental agency of this~~
11 ~~state to use or permit the use of electronic records or electronic signatures.]~~
12 ~~(Deleted by amendment.)~~

13 **Sec. 5.** This act becomes effective on January 1, ~~[2020.]~~ 2021.