

Amendment No. 437

Senate Amendment to Senate Bill No. 388	(BDR 19-827)
Proposed by: Senate Committee on Government Affairs	
Amends: Summary: No Title: No 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.



SENATE BILL NO. 388—SENATOR DENIS

MARCH 20, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to public records. (BDR 19-827)

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; providing for the designation of certain public records and portions of public records as confidential; requiring a governmental entity to grant a request to copy such records under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally authorizes members of the public to inspect or copy public records not declared by law to be confidential. (NRS 239.010) **Section 1** of this bill provides that a record or portion of a record that contains personally identifiable information collected *by automated means over the Internet or other digital network* by a governmental entity as part of the electronic collection of information from the general public is confidential if the governmental entity determines that the disclosure of the personally identifiable information could create negative consequences for the person to whom the record pertains. **Section 1** additionally requires a governmental entity to maintain a list of records and portions of records declared confidential under such circumstances. **Section 1** requires the governmental entity to grant a request to inspect or copy such a record or portion of a record declared confidential under such circumstances if *the disclosure is not otherwise prohibited by state or federal law and* the requester demonstrates a compelling justification that outweighs the risk of potential negative consequences. **Section 1** requires a governmental entity to submit to the Legislature an annual report that includes a description of each record determined to be confidential under such circumstances and the reasons for that determination.

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 a new section to read as follows:

1. Except as otherwise provided in subsection 3, a record or portion of a record that contains personally identifiable information collected by automated means over the Internet or other digital network by a governmental entity as part of the electronic collection of information from the general public is confidential if the governmental entity determines that the disclosure of the personally

identifiable information could potentially create negative consequences, including, without limitation, financial loss, stigmatization, harm to reputation, anxiety, embarrassment, fear or other physical or emotional harm, for the person to whom the information pertains.

2. Each governmental entity shall maintain a list of records and portions of records determined to be confidential pursuant to subsection 1. The list must describe each record or portion of a record without revealing any personally identifiable information contained in the record.

3. ~~FA~~ Except if the disclosure is otherwise prohibited by state or federal law, a governmental entity shall grant a request pursuant to NRS 239.010 to inspect or copy a record or portion of a record determined to be confidential pursuant to subsection 1 if the requester demonstrates a compelling operational, administrative, legal or educational justification for inspecting or copying the record or portion of a record, as applicable, that, in the determination of the governmental entity, outweighs the risk of potential negative consequences to the person to whom the record pertains.

4. On or before February 15 of each year, a governmental entity shall:

(a) Prepare a report that provides a detailed description of each record or portion of a record determined to be confidential pursuant to subsection 1 and an explanation of the reasons for that determination. The report must not include any personally identifiable information.

(b) Submit the report to the Director of the Legislative Counsel Bureau for transmittal to:


(1) If the Legislature is in session, the standing committees of the Legislature which have jurisdiction of the subject matter; or

(2) If the Legislature is not in session, the Legislative Commission.

5. As used in this section, "personally identifiable information" means information that, alone or in combination with other information, may be used to identify a person or an electronic device used by the person. The term includes, without limitation, the name, address, telephone number, date of birth, and directory information of a person.

Sec. 2. 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, 3.2203, 41.071, 49.095, 49.293, 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, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 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, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503,

293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110,
332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 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, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008,
379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501,
388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925,
392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335,
392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405,
396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484,
412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236,
427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407,
432B.430, 432B.560, 432B.5902, 433.534, 433A.360, 437.145, 439.840, 439B.420,
440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 445A.665,
445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720, 453A.610,
453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846,
463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365,
480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363,
483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452, 522.040,
534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110,
599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015,
616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110,
624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047,
629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125,
632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158,
636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
640A.220, 640B.730, 640C.400, 640C.600, 640C.620, 640C.745, 640C.760,
640D.190, 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170,
641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625,
645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130,
645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945,
647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105,
661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450,
673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159,
679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410,
681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117,
692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480,
693A.615, 696B.550, 696C.120, 703.196, 704B.320, 704B.325, 706.1725,
706A.230, 710.159, 711.600  and section 1 of this act, sections 35, 38 and 41 of
chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of
Nevada 2013 and unless otherwise declared by law to be confidential, all public
books and public records of a governmental entity must be open at all times during
office hours to inspection by any person, and may be fully copied or an abstract or
memorandum may be prepared from those public books and public records. Any
such copies, abstracts or memoranda may be used to supply the general public with
copies, abstracts or memoranda of the records or may be used in any other way to
the advantage of the governmental entity or of the general public. This section does
not supersede or in any manner affect the federal laws governing copyrights or
enlarge, diminish or affect in any other manner the rights of a person in any written
book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is
copyrighted solely because it is copyrighted.

1 3. A governmental entity that has legal custody or control of a public book or
2 record shall not deny a request made pursuant to subsection 1 to inspect or copy or
3 receive a copy of a public book or record on the basis that the requested public
4 book or record contains information that is confidential if the governmental entity
5 can redact, delete, conceal or separate the confidential information from the
6 information included in the public book or record that is not otherwise confidential.

7 4. A person may request a copy of a public record in any medium in which
8 the public record is readily available. An officer, employee or agent of a
9 governmental entity who has legal custody or control of a public record:

10 (a) Shall not refuse to provide a copy of that public record in a readily
11 available medium because the officer, employee or agent has already prepared or
12 would prefer to provide the copy in a different medium.

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

16 **Sec. 3.** The provisions of subsection 1 of NRS 218D.380 do not apply to any
17 provision of this act which adds or revises a requirement to submit a report to the
18 Legislature.

19 **Sec. 4.** This act becomes effective on July 1, 2019.