

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 with certain standards with respect to the collection, dissemination and maintenance of records containing personal information of a resident of this State; prohibiting a governmental agency from requiring 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 with certain standards published by the Center for Internet Security, Inc. or the National Institute of Standards and Technology 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 a governmental agency from



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requiring a person to submit a document that is required to contain personal information by electronic means. **Section 3** 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.

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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, 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.

~~3.1~~ 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 ~~§~~, *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~~, 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. *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, 2020, 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 not require a person to record, file or otherwise submit such a document by electronic means. A governmental agency may accept documents that are required to contain personal information recorded, filed or otherwise*



*submitted by electronic means so long as the governmental agency accepts equivalent documents recorded, filed or otherwise submitted in paper form using any method of delivery used in conventional commercial practice, including, without limitation, delivery by hand, mail or commercial delivery.*

4. 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.]~~ 5. 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 any such personal information, identification of the specific law, public program or grant that requires the inclusion of the personal information. A governmental agency may refuse to record, file or otherwise accept a document which does not contain such an affirmation when required or any document which contains personal information about a person 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.

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

(a) Maintained in a confidential manner if the personal information is 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

(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.

~~[6.]~~ 7. 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



1 that is not required to be included in the document pursuant to a  
2 specific state or federal law, for the administration of a public  
3 program or for an application for a federal or state grant or, if the  
4 personal information is so required to be included in the document,  
5 the person may request that the governmental agency maintain the  
6 personal information in a confidential manner. If any documents  
7 that have been recorded, filed or otherwise submitted to a  
8 governmental agency:

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

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

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

23 ~~7-1~~ 8. As used in this section:

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

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

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

30 719.350 1. Except as otherwise provided in *subsection 3 of*  
31 *NRS 239B.030*, subsection 6 of NRS 719.290 and NRS 719.345,  
32 each governmental agency of this state shall determine whether, and  
33 the extent to which, it will send and accept electronic records and  
34 electronic signatures to and from other persons and otherwise create,  
35 generate, communicate, store, process, use and rely upon electronic  
36 records and electronic signatures.

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

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

44 (b) If electronic records must be signed by electronic means, the  
45 type of electronic signature required, the manner and format in



1 which the electronic signature must be affixed to the electronic  
2 record, and the identity of, or criteria that must be met by, any third  
3 party used by a person filing a document to facilitate the process;

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

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

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

14 **Sec. 5.** This act becomes effective on January 1, 2020.

