

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; authorizing a governmental agency 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. **Section 1** requires the Office of Information Security of the Division of Enterprise Information Technology Services of the Department of Administration to create, maintain and make available to the public a list of controls and standards that the State is required to comply with pursuant to federal law that also satisfy the standards and controls set forth in **section 1**.

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**. **Section 1.5** of this bill provides that all records and information relating to an audit conducted for such



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purposes, other than a statement indicating whether the agency is complying with the standards set forth in **section 1**, are confidential.

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 authorizes a governmental agency 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 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.

~~3.1~~ 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.

5. *The Office of Information Security of the Division of Enterprise Information Technology Services of the Department of*



Administration shall create, maintain and make available to the public a list of controls and standards with which the State is required to comply pursuant to any federal law, regulation or framework that also satisfy the controls and standards set forth in subsection 2.

Sec. 1.5. Chapter 218G of NRS is hereby amended by adding thereto a new section to read as follows:

1. A report of an audit conducted by the Legislative Auditor pursuant to NRS 218G.200 to determine whether an agency of the State is complying with the standards regarding records containing personal information set forth in NRS 603.210 must contain only a statement that the agency, as applicable:

(a) Has adequately complied with the standards set forth in NRS 603A.210; or

(b) Has not adequately complied with the standards set forth in NRS 603A.210.

2. Except as otherwise provided in subsection 1, any records or other information relating to an audit described in subsection 1, including, without limitation, any records containing information which would be required to be kept confidential pursuant to NRS 242.105, are confidential and not subject to inspection by the general public.

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 H, *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. 2.5. 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,



1 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
2 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
3 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940,
4 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363,
5 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452,
6 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964,
7 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710,
8 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341,
9 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327,
10 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047,
11 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368,
12 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055,
13 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087,
14 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730,
15 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190,
16 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170,
17 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870,
18 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092,
19 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375,
20 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033,
21 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115,
22 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450,
23 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122,
24 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270,
25 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077,
26 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010,
27 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190,
28 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420,
29 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320,
30 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 1.5*
31 *of this act*, sections 35, 38 and 41 of chapter 478, Statutes of
32 Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013
33 and unless otherwise declared by law to be confidential, all public
34 books and public records of a governmental entity must be open at
35 all times during office hours to inspection by any person, and may
36 be fully copied or an abstract or memorandum may be prepared
37 from those public books and public records. Any such copies,
38 abstracts or memoranda may be used to supply the general public
39 with copies, abstracts or memoranda of the records or may be used
40 in any other way to the advantage of the governmental entity or of
41 the general public. This section does not supersede or in any manner
42 affect the federal laws governing copyrights or enlarge, diminish or
43 affect in any other manner the rights of a person in any written book
44 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.

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

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

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

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

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, 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, 2021,*



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 may require a person to record, file or otherwise submit such a document by electronic means.

4. A governmental agency may establish procedures by which a person may apply for and receive a waiver from a requirement imposed pursuant to subsection 3. Such procedures must:

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

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

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

5. 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.]~~ *6. 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.]~~ *7. 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-]~~ 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.

~~[7-]~~ 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. (Deleted by amendment.)

Sec. 5. This act becomes effective on January 1, 2021.

