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THIRD REPRINT

S.B. 302

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 the Legislative Auditor from including certain information in the report of an audit; requiring the Legislative Auditor to report certain information concerning the security of the information system of an agency of the State under certain circumstances; authorizing a governmental agency to require a person to submit a record containing personal information by electronic means; requiring certain state agencies to remove data from certain electronic waste; 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**.



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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 prohibits the Legislative Auditor from including in the report of an audit any information the Legislative Auditor determines could potentially expose this State to a breach of the security of an information system of an agency of this State. **Section 1.5** further requires the Legislative Auditor to report to the Governor, the Chair of the Legislative Commission, the Chair of the Audit Subcommittee of the Legislative Commission and the head of an affected agency any vulnerability in the information system of an agency of this State that the Legislative Auditor discovers during the course of an audit and determines poses a serious threat to the security of the information system.

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.

Section 1.1 of this bill requires each court of justice in this State to permanently remove all data from electronic waste before disposing of such waste. **Sections 1.3, 2.7, 5 and 6** of this bill similarly require the Legislative Counsel Bureau, certain state agencies, each school district and the Nevada System of Higher Education, respectively, to remove all data from electronic waste before disposing of such waste.

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.

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. 1.1. Chapter 1 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Before disposing of electronic waste, each court of justice in this State shall permanently remove any data stored on the electronic waste.*

2. *As used in this section, "electronic waste" means electronic equipment that has been discarded, is no longer wanted by the owner or for any other reason enters the waste collection, recovery, treatment, processing or recycling system.*

Sec. 1.3. Chapter 218F of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Before disposing of electronic waste, the Legislative Counsel Bureau shall permanently remove any data stored on the electronic waste.*

2. *As used in this section, "electronic waste" means electronic equipment that has been discarded, is no longer wanted by the owner or for any other reason enters the waste collection, recovery, treatment, processing or recycling system.*

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 must not contain any information that the Legislative Auditor determines could potentially expose this State to a breach of the security of an information system of an agency of this State.*



2. *If the Legislative Auditor discovers, in the course of an audit, a vulnerability in an information system of an agency of the State that the Legislative Auditor determines poses a serious threat to the security of the information system, the Legislative Auditor shall report the vulnerability immediately to the Governor, the Chair of the Legislative Commission, the Chair of the Audit Subcommittee and the head of the agency affected.*

3. *As used in this section, "information system" has the meaning ascribed to it in NRS 242.057.*

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. (Deleted by amendment.)

Sec. 2.7. Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Before disposing of electronic waste, each state agency shall permanently remove any data stored on the electronic waste.*

2. *As used in this section, "electronic waste" means electronic equipment that has been discarded, is no longer wanted by the owner or for any other reason enters the waste collection, recovery, treatment, processing or recycling system.*

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



1 a person on any document that is recorded, filed or otherwise
2 submitted to the governmental agency on or after January 1, 2007.

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

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

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

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

17 3. *If personal information about a person is required to be*
18 *included in a document that is recorded, filed or otherwise*
19 *submitted to a governmental agency on or after January 1, 2021,*
20 *pursuant to a specific state or federal law, for the administration*
21 *of a public program or for an application for a federal or state*
22 *grant, a governmental agency may require a person to record, file*
23 *or otherwise submit such a document by electronic means.*

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

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

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

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

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

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



1 such an affirmation when required or any document which contains
2 personal information about a person that is not required to be
3 included in the document pursuant to a specific state or federal law,
4 for the administration of a public program or for an application for a
5 federal or state grant.

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

11 (a) Maintained in a confidential manner if the personal
12 information is required to be included in the document pursuant to a
13 specific state or federal law, for the administration of a public
14 program or for an application for a federal or state grant; or

15 (b) Obliterated or otherwise removed from the document, by any
16 method, including, without limitation, through the use of computer
17 software, if the personal information is not required to be included
18 in the document pursuant to a specific state or federal law, for the
19 administration of a public program or for an application for a federal
20 or state grant.

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

24 ~~[6-]~~ 8. A person may request that a governmental agency
25 obliterate or otherwise remove from any document submitted by the
26 person to the governmental agency before January 1, 2007, any
27 personal information about the person contained in the document
28 that is not required to be included in the document pursuant to a
29 specific state or federal law, for the administration of a public
30 program or for an application for a federal or state grant or, if the
31 personal information is so required to be included in the document,
32 the person may request that the governmental agency maintain the
33 personal information in a confidential manner. If any documents
34 that have been recorded, filed or otherwise submitted to a
35 governmental agency:

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

43 (b) Are not maintained in an electronic format or not maintained
44 in an electronic format in the manner described in paragraph (a), a
45 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.

~~7.1~~ 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. Chapter 386 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Before disposing of electronic waste, each school district shall permanently remove any data stored on the electronic waste.

2. As used in this section, "electronic waste" means electronic equipment that has been discarded, is no longer wanted by the owner or for any other reason enters the waste collection, recovery, treatment, processing or recycling system.

Sec. 6. Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Before disposing of electronic waste, the System shall permanently remove any data stored on the electronic waste.

2. As used in this section, "electronic waste" means electronic equipment that has been discarded, is no longer wanted by the owner or for any other reason enters the waste collection, recovery, treatment, processing or recycling system.

Sec. 7. 1. This section and section 1.5 of this act become effective upon passage and approval.

2. Sections 1, 1.1, 1.3, 2, 2.7, 3, 5 and 6 of this act become effective on January 1, 2021.

