

SENATE BILL NO. 339—SENATOR DENIS

MARCH 18, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to public records.
(BDR 19-821)

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; authorizing a governmental entity to declare certain records of the governmental entity to be confidential; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that all public books and records of a governmental entity must be open to inspection unless otherwise declared by law to be confidential. (NRS 239.010) **Section 1** of this bill authorizes a governmental entity to declare to be confidential records that contain information collected by the governmental entity which the governmental entity has determined pose a privacy risk because the information may be linked to a specific person or the device of a specific person. **Section 1** requires a governmental entity to allow a person to inspect or copy any such record if he or she demonstrates a compelling interest in doing so that is not outweighed by the privacy risk to the person about whom the record pertains. Lastly, **section 1** requires a governmental entity to submit to the Legislature an annual report detailing the records that have been declared to be confidential and the reasons such records have been declared confidential. **Section 2** of this bill makes a conforming change.

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. Notwithstanding any other provision of law, and except as otherwise provided in subsection 6, if a governmental entity collects information from the public using the Internet or other



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1 *digital network and determines pursuant to subsection 2 that the*
2 *information collected creates a privacy risk to a member of the*
3 *public, the governmental entity may declare those records or*
4 *portions of those records to be confidential and, except as*
5 *otherwise provided in subsection 3, not subject to inspection by the*
6 *public.*

7 2. A governmental entity may review the information
8 collected by the governmental entity as described in subsection 1 to
9 determine whether that information creates a privacy risk because
10 the information may be:

11 (a) Used to identify an individual person or a device associated
12 with that person; or

13 (b) Combined with other information collected by the
14 governmental entity from the public to identify an individual
15 person or a device associated with that person.

16 3. Each governmental entity shall maintain a list of each
17 record or portion of a record that the governmental entity declares
18 to be confidential pursuant to subsection 1. The list must
19 recognize the existence of each such record or portion thereof
20 without revealing the contents of any record.

21 4. A person may inspect a record or portion of a record that is
22 declared to be confidential pursuant to subsection 1 upon a
23 determination by the governmental entity that the person has
24 demonstrated a compelling interest in inspecting the record or
25 portion thereof and that the compelling interest outweighs the
26 privacy risk to the person about whom the record pertains.

27 5. On or before February 15 of each year, each governmental
28 entity shall:

29 (a) Prepare a report setting forth a detailed description of each
30 record or portion thereof that is confidential pursuant to
31 subsection 1, if any, and an explanation of why each record or
32 portion thereof was declared confidential; and

33 (b) Submit a copy of the report to the Director of the
34 Legislative Counsel Bureau for transmittal to:

35 (1) If the Legislature is in session, the standing committees
36 of the Legislature which have jurisdiction over this chapter; or

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

39 6. The provisions of this section do not apply to any record
40 that is collected by a governmental entity as described in
41 subsection 1 for purposes which may result in discrimination on
42 the basis of race, color, sex, sexual orientation, gender identity or
43 expression, age, disability, religion or national origin, including,
44 without limitation, targeted advertising practices which are



discriminatory or discrimination related to price, service or employment opportunity.

7. As used in this section:

(a) "Compelling interest" includes, without limitation, an operational, administrative, legal or educational reason provided for inspecting a record.

(b) "Privacy risk" means the potential harm to a person resulting from the collection, processing, storing, disclosure or dissemination of personal information of the person, including, without limitation, financial loss, reputational harm, emotional trauma, loss of economic opportunity or physical harm to the 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,



1 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,
2 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035,
3 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315,
4 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698,
5 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535,
6 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484,
7 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350,
8 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,
9 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,
10 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170,
11 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735,
12 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140,
13 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
14 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
15 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940,
16 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363,
17 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452,
18 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964,
19 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710,
20 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341,
21 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327,
22 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047,
23 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368,
24 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055,
25 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087,
26 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730,
27 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190,
28 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170,
29 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870,
30 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092,
31 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375,
32 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033,
33 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115,
34 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450,
35 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122,
36 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270,
37 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077,
38 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010,
39 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190,
40 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420,
41 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320,
42 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 1 of*
43 *this act*, sections 35, 38 and 41 of chapter 478, Statutes of Nevada
44 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and
45 unless otherwise declared by law to be confidential, all public books



1 and public records of a governmental entity must be open at all
2 times during office hours to inspection by any person, and may be
3 fully copied or an abstract or memorandum may be prepared from
4 those public books and public records. Any such copies, abstracts or
5 memoranda may be used to supply the general public with copies,
6 abstracts or memoranda of the records or may be used in any other
7 way to the advantage of the governmental entity or of the general
8 public. This section does not supersede or in any manner affect the
9 federal laws governing copyrights or enlarge, diminish or affect in
10 any other manner the rights of a person in any written book or
11 record which is copyrighted pursuant to federal law.

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

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

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

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

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

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

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

