

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.



* S B 3 8 8 R 1 *

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. 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.



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

7 **Sec. 2.** NRS 239.010 is hereby amended to read as follows:

8 239.010 1. Except as otherwise provided in this section and
9 NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293,
10 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170,
11 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113,
12 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200,
13 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345,
14 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880,
15 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280,
16 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140,
17 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130,
18 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044,
19 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625,
20 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691,
21 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772,
22 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925,
23 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131,
24 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625,
25 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450,
26 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105,
27 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210,
28 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030,
29 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560,
30 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910,
31 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685,
32 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438,
33 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503,
34 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510,
35 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379,
36 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,
37 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247,
38 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180,
39 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495,
40 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,
41 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035,
42 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315,
43 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698,
44 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535,
45 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484,



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



1 in any other way to the advantage of the governmental entity or of
2 the general public. This section does not supersede or in any manner
3 affect the federal laws governing copyrights or enlarge, diminish or
4 affect in any other manner the rights of a person in any written book
5 or record which is copyrighted pursuant to federal law.

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

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

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

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

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

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

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

