

Amendment No. 691

Assembly Amendment to Senate Bill No. 109 First Reprint	(BDR 19-95)
Proposed by: Assembly Committee on Government Affairs	
Amendment Box: Replaces Amendment No. 531.	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the unfunded mandate not requested by the affected local government to S.B. 109 R1 (§ 4).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red-strikethrough~~ is deleted language in the original bill; (4) ~~purple double-strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

ERS/HAC



Date: 5/19/2021

S.B. No. 109—Revises provisions relating to the collection of certain information by governmental agencies. (BDR 19-95)



SENATE BILL NO. 109—SENATOR SPEARMAN

FEBRUARY 9, 2021

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to the collection of certain information by governmental agencies. (BDR 19-95)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 4)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 governmental agencies; requiring *with certain exceptions*, governmental agencies to request from certain persons information related to sexual orientation and gender identity or expression; providing, with certain exceptions, that such information is confidential; requiring a governmental agency to annually report certain information related to sexual orientation and gender identity or expression to the Director of the Legislative Counsel Bureau; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes certain governmental entities to collect certain personal information. (Chapter 239B of NRS) **Section 3** of this bill makes certain legislative findings and declarations related to the collection by governmental agencies of ~~{demographic}~~ information related to sexual orientation and gender identity or expression. "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth. (NRS 0.034)

Section 2 of this bill defines "governmental agency" to include any unit of government of the State or a local government. **Section 4** of this bill: (1) requires *with certain exceptions*, a governmental agency that ~~{collects}~~ *requests* from a person ~~{demographic}~~ information related to the person's race or ethnicity to also request information related to the person's sexual orientation and gender identity or expression; (2) provides, with limited exception, that such information is confidential; and (3) authorizes the governmental agency to use such information only for certain purposes. **Section 4** also provides that no person shall be required to provide to a governmental agency any information related to the person's sexual orientation or gender identity or expression or denied services or assistance for failure to provide such information. **Section 4** further requires a governmental agency to submit an annual report to the Director of the Legislative Counsel Bureau that includes a summary of the information received related to sexual orientation and gender identity or expression.

Section 5 of this bill makes a conforming change relating to the confidentiality of the information collected by a governmental agency related to sexual orientation and gender identity or expression.

Section 5.5 of this bill provides that a governmental agency that does not have the financial resources to comply with the requirements of **section 4** is not required to comply with the provisions of **section 4** until January 1, 2024. Any such governmental agency must submit an annual report to the Director of the Legislative Counsel Bureau that includes: (1) the specific reasons that the governmental agency has not complied with the requirements of **section 4**; and (2) the specific actions that the governmental agency has taken in the immediately preceding year toward compliance with the requirements of **section 4**.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 239B of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *As used in sections 3 and 4 of this act, "governmental agency" means an officer, board, commission, department, division, bureau, district or any other unit of government of the State or a local government.*

Sec. 3. *The Legislature finds and declares that:*

1. It is the intent of the Legislature that, in collecting ~~demographic~~ information, governmental agencies must gather accurate information in order for the State and local governments to be able to enhance and improve public services to people in this State.

2. Various governmental agencies collect ~~demographic~~ information on race and ethnicity but there is limited collection by governmental agencies of ~~demographic~~ information related to sexual orientation and gender identity or expression.

3. Compared to the broader community, lesbian, gay, bisexual, transgender and questioning persons experience disparities in their health and welfare and disproportionately high rates of poverty, suicide, homelessness, isolation, substance use disorders and violence. These problems are more prevalent for youth and seniors, communities of color and immigrants.

4. It is in the best interests of the State to respect, embrace and understand the full diversity of residents by collecting accurate ~~demographic~~ information to effectively implement and deliver critical services and programs.

Sec. 4. *1. ~~Except as otherwise provided in this section, a governmental agency that collects requests from a person demographic~~ information related to the person's race or ethnicity shall also request information related to the person's sexual orientation and gender identity or expression. A peace officer is not required pursuant to this section to request from a person information related to the person's sexual orientation and gender identity or expression when the peace officer is requesting information from a person during an interaction with the person for law enforcement purposes.*

2. Except as otherwise provided in this section, all information related to a person's sexual orientation or gender identity or expression that is received by a governmental agency is confidential.

~~2.~~ *3. No person shall be:*

(a) Required to provide to a governmental agency any information related to the person's sexual orientation or gender identity or expression; or

(b) Denied services or assistance from a governmental agency for failure to provide to the governmental agency any information related to the person's sexual orientation or gender identity or expression.

~~3.~~ *4. A governmental agency that receives information related to a person's sexual orientation or gender identity or expression may only use such*

information for carrying out the duties of the governmental agency, demographic analysis, coordination of care and services, improvement of care and services, conducting research, fulfilling a reporting requirement pursuant to federal or state law or informing policy or funding decisions.

~~44~~ 5. On or before December 31 of each year, a governmental agency shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or, if the Legislature is not in session, to the Legislative Commission, a summary of the information received by the governmental agency related to sexual orientation or gender identity or expression, including, without limitation, the number of people who identify as lesbian, gay, bisexual or transgender, according to race and gender. All information must be reported in the aggregate and must not include any personally identifiable information.

6. As used in this section, "peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.

Sec. 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, 119A.677, 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, 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, 209.3923, 209.3925, 209.419, 209.429, 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, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 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, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870, 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, 361.2242, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 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, 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045, 394.167, 394.16975, 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, 414.280, 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, 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207, 439.4941, 439.840,

439.914, 439B.420, 439B.754, 439B.760, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.3415, 632.405, 633.283, 633.301, 633.4715, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325, 641A.191, 641A.262, 641A.289, 641B.170, 641B.282, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.125, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 4 of this act*, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book 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, including, without limitation, electronically, the confidential information from the information included in the public book or record that is not otherwise confidential.

4. If requested, a governmental entity shall provide a copy of a public record in an electronic format by means of an electronic medium. Nothing in this

subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:

(a) The public record:

- (1) Was not created or prepared in an electronic format; and
- (2) Is not available in an electronic format; or

(b) Providing the public record in an electronic format or by means of an electronic medium would:

(1) Give access to proprietary software; or

(2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

5. 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 the medium that is requested 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. 5.5. 1. Notwithstanding the provisions of section 4 of this act, if a governmental agency does not have sufficient financial resources to comply with the provisions of section 4 of this act, the governmental agency is not required to comply with the provisions of section 4 of this act until January 1, 2024. Any such governmental agency must, on or before January 1 of each year, starting on January 1, 2022, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or, if the Legislature is not in session, to the Legislative Commission, a report which indicates:

(a) The specific reasons that the governmental agency has not complied with the requirements of section 4 of this act; and

(b) The specific actions that the governmental agency has taken in the immediately preceding year toward compliance with the requirements of section 4 of this act.

2. As used in this section, "governmental agency" has the meaning ascribed to it in section 2 of this act.

Sec. 6. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 7. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.