

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 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 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 a governmental agency that requests from a person 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



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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 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 information on race and ethnicity but there is limited collection by governmental agencies of 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 information to effectively implement and deliver critical services and programs.

Sec. 4. *1. A governmental agency that requests from a person information related to the person’s race or ethnicity shall also request information related to the person’s sexual orientation*



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

5 2. No person shall be:

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

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

13 3. *A governmental agency that receives information related to*
14 *a person's sexual orientation or gender identity or expression may*
15 *only use such information for carrying out the duties of the*
16 *governmental agency, demographic analysis, coordination of care*
17 *and services, improvement of care and services, conducting*
18 *research, fulfilling a reporting requirement pursuant to federal or*
19 *state law or informing policy or funding decisions.*

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

30 **Sec. 5.** NRS 239.010 is hereby amended to read as follows:

31 239.010 1. Except as otherwise provided in this section and
32 NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293,
33 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170,
34 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113,
35 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200,
36 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345,
37 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880,
38 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280,
39 119A.653, 119A.677, 119B.370, 119B.382, 120A.690, 125.130,
40 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,
41 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050,
42 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015,
43 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
44 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771,
45 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392,



1 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140,
2 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
3 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240,
4 218G.350, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069,
5 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239.014,
6 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230,
7 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030,
8 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560,
9 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490,
10 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350,
11 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068,
12 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830,
13 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870,
14 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061,
15 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725,
16 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049,
17 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
18 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180,
19 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008,
20 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455,
21 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249,
22 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147,
23 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335,
24 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460,
25 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685,
26 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153,
27 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350,
28 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,
29 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,
30 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207,
31 439.4941, 439.840, 439.914, 439B.420, 439B.754, 439B.760,
32 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,
33 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345,
34 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188,
35 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
36 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
37 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545,
38 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536,
39 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484E.070,
40 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160,
41 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090,
42 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012,
43 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238,
44 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425,
45 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,



1 630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368,
2 632.121, 632.125, 632.3415, 632.405, 633.283, 633.301, 633.4715,
3 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
4 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
5 640A.220, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745,
6 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325,
7 641A.191, 641A.262, 641A.289, 641B.170, 641B.282, 641B.460,
8 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180,
9 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,
10 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,
11 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228,
12 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133,
13 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380,
14 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800,
15 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285,
16 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540,
17 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
18 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696,
19 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538,
20 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120,
21 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and*
22 *section 4 of this act*, sections 35, 38 and 41 of chapter 478, Statutes
23 of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada
24 2013 and unless otherwise declared by law to be confidential, all
25 public books and public records of a governmental entity must be
26 open at all times during office hours to inspection by any person,
27 and may be fully copied or an abstract or memorandum may be
28 prepared from those public books and public records. Any such
29 copies, abstracts or memoranda may be used to supply the general
30 public with copies, abstracts or memoranda of the records or may be
31 used in any other way to the advantage of the governmental entity or
32 of the general public. This section does not supersede or in any
33 manner affect the federal laws governing copyrights or enlarge,
34 diminish or affect in any other manner the rights of a person in any
35 written book or record which is copyrighted pursuant to federal law.

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

38 3. A governmental entity that has legal custody or control of a
39 public book or record shall not deny a request made pursuant to
40 subsection 1 to inspect or copy or receive a copy of a public book or
41 record on the basis that the requested public book or record contains
42 information that is confidential if the governmental entity can
43 redact, delete, conceal or separate, including, without limitation,
44 electronically, the confidential information from the information



1 included in the public book or record that is not otherwise
2 confidential.

3 4. If requested, a governmental entity shall provide a copy of a
4 public record in an electronic format by means of an electronic
5 medium. Nothing in this subsection requires a governmental entity
6 to provide a copy of a public record in an electronic format or by
7 means of an electronic medium if:

8 (a) The public record:

9 (1) Was not created or prepared in an electronic format; and

10 (2) Is not available in an electronic format; or

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

13 (1) Give access to proprietary software; or

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

17 5. An officer, employee or agent of a governmental entity who
18 has legal custody or control of a public record:

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

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

27 **Sec. 5.5.** 1. Notwithstanding the provisions of section 4 of
28 this act, if a governmental agency does not have sufficient financial
29 resources to comply with the provisions of section 4 of this act, the
30 governmental agency is not required to comply with the provisions
31 of section 4 of this act until January 1, 2024. Any such
32 governmental agency must, on or before January 1 of each year,
33 starting on January 1, 2022, submit to the Director of the Legislative
34 Counsel Bureau for transmittal to the Legislature or, if the
35 Legislature is not in session, to the Legislative Commission, a report
36 which indicates:

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

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

42 2. As used in this section, “governmental agency” has the
43 meaning ascribed to it in section 2 of this act.



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

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

