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AN ACT relating to privacy; granting courts discretion to close family law proceedings or portions thereof under certain circumstances; revising provisions concerning the accessibility of court records in family law proceedings; repealing an unconstitutional provision relating to the closure of certain divorce proceedings; prohibiting the public posting or display of the personal identifying information of another person under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the court in any action for divorce to close a proceeding upon the demand of either party to the action. (NRS 125.080) In 2024, the Nevada Supreme Court held that such a statute is unconstitutional because it permits closed court proceedings without the exercise of judicial discretion. (*Falconi v. Eighth Judicial District Court in and for the County of Clark*, 140 Nev. Adv. Op. 8, 543 P.3d 92 (2024)) **Section 6** of this bill repeals this statute. **Section 2** of this bill defines the term “family law proceeding” to mean a proceeding conducted pursuant to the provisions of Title 11 of NRS. **Section 3** of this bill: (1) establishes that family law proceedings are presumptively open unless an exception applies; and (2) authorizes a court to exercise its discretion and close any such proceeding or portion thereof if the court determines that closure is necessary to serve a compelling interest. **Section 3** also requires the court to: (1) consider certain factors when making this determination; (2) make certain written findings; and (3) exclude certain persons from the court or chambers if the proceeding is closed. Additionally, **section 3** provides, with certain exceptions, that a transcript, audio recording or electronic or video record of a closed portion of a hearing or trial: (1) is confidential and not open to inspection or copying, except by the parties, their counsel and necessary staff or experts; and (2) must not be distributed.

Section 4 of this bill governs which court records are accessible to the public in family law proceedings. Under **section 4**, a court is authorized to seal or redact certain court records if the court determines that the sealing or redaction is justified by a compelling interest that outweighs the public interest in access to the court record. **Section 4** also: (1) authorizes the court to unseal a court record under certain circumstances; and (2) requires the court to consider certain factors in determining whether to unseal a court record. **Section 6** repeals an existing statute governing which court records are accessible to the public in a divorce action, which is being replaced by the provisions of **section 4**.

Section 5 of this bill prohibits a person from willfully and intentionally posting or displaying in any public manner certain personal identifying information of another person without the consent of the person. **Section 5** provides that a person who commits such an unlawful act is guilty of a category D felony.



EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~for omitted material~~ is material to be omitted.

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

Section 1. Title 11 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *As used in this chapter, “family law proceeding” means a proceeding conducted pursuant to the provisions of this title.*

Sec. 3. 1. *Except as otherwise provided by specific statute or court rule, family law proceedings are presumptively open.*

2. Upon oral or written motion of either party, upon its own motion or upon the filing of a request to provide electronic coverage of a proceeding, a court may exercise its discretion and close a proceeding or portion thereof only if the court determines that closure is necessary to serve a compelling interest.

3. In addition to any other factors the court considers relevant in determining whether closure serves a compelling interest, the court shall consider:

(a) The presumption set forth in subsection 1;

(b) The best interest of each child involved in the proceeding;

(c) Whether permitting a third party to observe or record the proceeding creates a substantial risk of violating a federal or state law or regulation or court rule relating to the disclosure of personal identifying information that cannot be mitigated by sealing court records. As used in this paragraph, “personal identifying information” includes, without limitation:

(1) Individually identifiable health information as defined in 45 C.F.R. § 160.103; or

(2) Educational records under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto; and

(d) Whether, in the absence of closure, there is a substantial risk that:

(1) A party to the proceeding or child involved in the proceeding may suffer harassment, indignity, undue embarrassment or any other physical or emotional harm; or

(2) The fundamental right of privacy of any person will be violated.

4. After considering the factors set forth in subsection 3 and any other factors the court considers relevant in determining



whether closure is necessary to serve a compelling interest, the court shall make written findings regarding:

(a) Whether there is a substantial probability that, in the absence of closure, the compelling interest will be harmed;

(b) Whether there are alternatives to closure that would adequately protect the compelling interest; and

(c) Whether the closure is narrowly tailored to protect the compelling interest.

5. If the court determines that a proceeding or portion thereof should be closed pursuant to subsection 2:

(a) The court shall direct that the proceeding or portion thereof be closed; and

(b) Except as otherwise provided in subsections 6 and 7, all persons must be excluded from the court or chambers wherein the action is tried, except:

(1) The officers of the court;

(2) The parties;

(3) The counsel for the parties and any staff of such counsel;

(4) The witnesses for the parties, including, without limitation, expert witnesses;

(5) The guardians of the parties; and

(6) Persons who are related within the third degree of consanguinity to the parties.

6. The court may, upon oral or written motion of either party or on its own motion, exclude any person described in subparagraph (4), (5) or (6) of paragraph (b) of subsection 5 from the court or chambers wherein the action is tried.

7. If the court determines that the interests of justice or best interests of a child would be served, the court may permit a person to remain, observe and hear any relevant portion of a proceeding, notwithstanding any request by a party that the proceeding be closed.

8. Except as otherwise provided by specific statute, court rule or court order, a transcript, audio recording or electronic or video record of a closed portion of a hearing or trial is confidential and not open to inspection or copying by persons except the parties, the counsel for the parties and such staff and experts as the counsel for the parties deem necessary.

9. A person with such access shall not distribute or facilitate the distribution of a transcript, audio recording or electronic or video record of any closed portion of a hearing or trial, except as otherwise provided by specific statute, court rule or court order. A



person who violates this subsection shall, upon receiving notice of the violation:

(a) Cease and desist from the conduct; and

(b) Immediately remove the transcript, audio recording or electronic or video record from public access.

10. As used in this section, the term “electronic coverage” includes broadcasting, televising, recording and photographing.

Sec. 4. 1. In a family law proceeding:

(a) The following court records must be open to public inspection in the clerk’s office:

(1) The summons and proof of service;

(2) If service is made by publication, the affidavit for publication;

(3) The pleadings;

(4) Any decree or other order, including, without limitation, an order directing the publication of a summons; and

(5) Any judgment, including, without limitation, a judgment of default.

(b) The following court records are not open to public inspection except by order of the court for good cause shown:

(1) Financial disclosure forms;

(2) Documents, records or evidence filed under seal;

(3) Documents sealed by a court pursuant to subsection 3;

(4) Confidential exhibits;

(5) Child custody evaluations;

(6) Medical records, including, without limitation, any medical, psychiatric or psychological evaluation or report; and

(7) Any documents, the copying or distribution of which is prohibited by federal or state law or regulation or court rule.

2. Except as otherwise provided in subsection 8 of section 3 of this act, all other court records, including, without limitation, exhibits and transcripts of testimony, are presumptively open to public inspection.

3. The court may, on its own motion or at the request of a party, seal or redact a court record described in subsection 2 if the court determines that the sealing or redaction is justified by a compelling interest that outweighs the public interest in access to the court record. For the purpose of this subsection, protecting personal identifying information concerning a party or child involved in the proceeding from disclosure shall be deemed to be a compelling interest that outweighs the public interest in access to the court record.



4. The court may unseal a court record sealed pursuant to subsection 3:

- (a) Upon written stipulation of all parties;
- (b) Upon its own motion for good cause shown; or
- (c) Upon the motion of a party for good cause shown. A copy of any such motion must be served upon all parties to the proceeding.

5. In addition to any other factors the court considers relevant in determining whether good cause exists for unsealing a court record pursuant to subsection 4, the court shall consider:

(a) Whether the court record contains information made confidential by federal or state law or regulation or court rule;

(b) Whether federal or state law or regulation or court rule provides that any information in the court record is not a public record;

(c) The interests of the party seeking to unseal the record; and

(d) Whether unsealing the record would create a substantial risk that a party to the proceeding or child involved in the proceeding may suffer harassment, indignity, undue embarrassment or any other physical or emotional harm.

6. As used in this section, “court record” includes, without limitation, any document, information or exhibit maintained by a court in connection with a family law proceeding.

Sec. 5. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a person shall not willfully and intentionally post or display in any public manner the personal identifying information of another person without the consent of the person if the information is required to be kept private pursuant to federal or state law or regulation or court rule.

2. Unless a greater penalty is provided by specific statute, a person who violates this section is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. As used in this section:

(a) “Personal identifying information” has the meaning ascribed to it in NRS 205.4617.

(b) “Post or display in any public manner” means to communicate or otherwise make available to the general public.

Sec. 6. NRS 125.080 and 125.110 are hereby repealed.



