

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 19**

Introduced by Briese, 41.

Read first time January 10, 2019

Committee:

- 1 A BILL FOR AN ACT relating to public records; to amend section 84-712.05,
- 2 Revised Statutes Cumulative Supplement, 2018; to provide for
- 3 confidentiality of certain reports of injury under the Nebraska
- 4 Workers' Compensation Act; to provide duties for the Nebraska
- 5 Workers' Compensation Court; and to repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section. 1. Section 84-712.05, Revised Statutes Cumulative  
2 Supplement, 2018, is amended to read:

3 84-712.05 The following records, unless publicly disclosed in an  
4 open court, open administrative proceeding, or open meeting or disclosed  
5 by a public entity pursuant to its duties, may, and in the case of  
6 records under subdivision (22) of this section, shall, be withheld from  
7 the public by the lawful custodian of the records:

8 (1) Personal information in records regarding a student, prospective  
9 student, or former student of any educational institution or exempt  
10 school that has effectuated an election not to meet state approval or  
11 accreditation requirements pursuant to section 79-1601 when such records  
12 are maintained by and in the possession of a public entity, other than  
13 routine directory information specified and made public consistent with  
14 20 U.S.C. 1232g, as such section existed on February 1, 2013, and  
15 regulations adopted thereunder;

16 (2) Medical records, other than records of births and deaths and  
17 except as provided in subdivision (5) of this section, in any form  
18 concerning any person; records of elections filed under section 44-2821;  
19 and patient safety work product under the Patient Safety Improvement Act;

20 (3) Trade secrets, academic and scientific research work which is in  
21 progress and unpublished, and other proprietary or commercial information  
22 which if released would give advantage to business competitors and serve  
23 no public purpose;

24 (4) Records which represent the work product of an attorney and the  
25 public body involved which are related to preparation for litigation,  
26 labor negotiations, or claims made by or against the public body or which  
27 are confidential communications as defined in section 27-503;

28 (5) Records developed or received by law enforcement agencies and  
29 other public bodies charged with duties of investigation or examination  
30 of persons, institutions, or businesses, when the records constitute a  
31 part of the examination, investigation, intelligence information, citizen

1 complaints or inquiries, informant identification, or strategic or  
2 tactical information used in law enforcement training, except that this  
3 subdivision shall not apply to records so developed or received:

4 (a) Relating to the presence of and amount or concentration of  
5 alcohol or drugs in any body fluid of any person; or

6 (b) Relating to the cause of or circumstances surrounding the death  
7 of an employee arising from or related to his or her employment if, after  
8 an investigation is concluded, a family member of the deceased employee  
9 makes a request for access to or copies of such records. This subdivision  
10 does not require access to or copies of informant identification, the  
11 names or identifying information of citizens making complaints or  
12 inquiries, other information which would compromise an ongoing criminal  
13 investigation, or information which may be withheld from the public under  
14 another provision of law. For purposes of this subdivision, family member  
15 means a spouse, child, parent, brother, sister, grandchild, or  
16 grandparent by blood, marriage, or adoption;

17 (6) Appraisals or appraisal information and negotiation records  
18 concerning the purchase or sale, by a public body, of any interest in  
19 real or personal property, prior to completion of the purchase or sale;

20 (7) Personal information in records regarding personnel of public  
21 bodies other than salaries and routine directory information;

22 (8) Information solely pertaining to protection of the security of  
23 public property and persons on or within public property, such as  
24 specific, unique vulnerability assessments or specific, unique response  
25 plans, either of which is intended to prevent or mitigate criminal acts  
26 the public disclosure of which would create a substantial likelihood of  
27 endangering public safety or property; computer or communications network  
28 schema, passwords, and user identification names; guard schedules; lock  
29 combinations; or public utility infrastructure specifications or design  
30 drawings the public disclosure of which would create a substantial  
31 likelihood of endangering public safety or property, unless otherwise

1 provided by state or federal law;

2 (9) The security standards, procedures, policies, plans,  
3 specifications, diagrams, access lists, and other security-related  
4 records of the Lottery Division of the Department of Revenue and those  
5 persons or entities with which the division has entered into contractual  
6 relationships. Nothing in this subdivision shall allow the division to  
7 withhold from the public any information relating to amounts paid persons  
8 or entities with which the division has entered into contractual  
9 relationships, amounts of prizes paid, the name of the prize winner, and  
10 the city, village, or county where the prize winner resides;

11 (10) With respect to public utilities and except as provided in  
12 sections 43-512.06 and 70-101, personally identified private citizen  
13 account payment and customer use information, credit information on  
14 others supplied in confidence, and customer lists;

15 (11) Records or portions of records kept by a publicly funded  
16 library which, when examined with or without other records, reveal the  
17 identity of any library patron using the library's materials or services;

18 (12) Correspondence, memoranda, and records of telephone calls  
19 related to the performance of duties by a member of the Legislature in  
20 whatever form. The lawful custodian of the correspondence, memoranda, and  
21 records of telephone calls, upon approval of the Executive Board of the  
22 Legislative Council, shall release the correspondence, memoranda, and  
23 records of telephone calls which are not designated as sensitive or  
24 confidential in nature to any person performing an audit of the  
25 Legislature. A member's correspondence, memoranda, and records of  
26 confidential telephone calls related to the performance of his or her  
27 legislative duties shall only be released to any other person with the  
28 explicit approval of the member;

29 (13) Records or portions of records kept by public bodies which  
30 would reveal the location, character, or ownership of any known  
31 archaeological, historical, or paleontological site in Nebraska when

1 necessary to protect the site from a reasonably held fear of theft,  
2 vandalism, or trespass. This section shall not apply to the release of  
3 information for the purpose of scholarly research, examination by other  
4 public bodies for the protection of the resource or by recognized tribes,  
5 the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or  
6 the federal Native American Graves Protection and Repatriation Act;

7 (14) Records or portions of records kept by public bodies which  
8 maintain collections of archaeological, historical, or paleontological  
9 significance which reveal the names and addresses of donors of such  
10 articles of archaeological, historical, or paleontological significance  
11 unless the donor approves disclosure, except as the records or portions  
12 thereof may be needed to carry out the purposes of the Unmarked Human  
13 Burial Sites and Skeletal Remains Protection Act or the federal Native  
14 American Graves Protection and Repatriation Act;

15 (15) Job application materials submitted by applicants, other than  
16 finalists or a priority candidate for a position described in section  
17 85-106.06 selected using the enhanced public scrutiny process in section  
18 85-106.06, who have applied for employment by any public body as defined  
19 in section 84-1409. For purposes of this subdivision, (a) job application  
20 materials means employment applications, resumes, reference letters, and  
21 school transcripts and (b) finalist means any applicant who is not an  
22 applicant for a position described in section 85-106.06 and (i) who  
23 reaches the final pool of applicants, numbering four or more, from which  
24 the successful applicant is to be selected, (ii) who is an original  
25 applicant when the final pool of applicants numbers less than four, or  
26 (iii) who is an original applicant and there are four or fewer original  
27 applicants;

28 (16) Records obtained by the Public Employees Retirement Board  
29 pursuant to section 84-1512;

30 (17) Social security numbers; credit card, charge card, or debit  
31 card numbers and expiration dates; and financial account numbers supplied

1 to state and local governments by citizens;

2 (18) Information exchanged between a jurisdictional utility and city  
3 pursuant to section 66-1867;

4 (19) Draft records obtained by the Nebraska Retirement Systems  
5 Committee of the Legislature and the Governor from Nebraska Public  
6 Employees Retirement Systems pursuant to subsection (4) of section  
7 84-1503;

8 (20) All prescription drug information submitted pursuant to section  
9 71-2454, all data contained in the prescription drug monitoring system,  
10 and any report obtained from data contained in the prescription drug  
11 monitoring system; ~~and~~

12 (21) Information obtained by any government entity, whether federal,  
13 state, county, or local, regarding firearm registration, possession,  
14 sale, or use that is obtained for purposes of an application permitted or  
15 required by law or contained in a permit or license issued by such  
16 entity. Such information shall be available upon request to any federal,  
17 state, county, or local law enforcement agency; and -

18 (22) Reports filed pursuant to section 48-144.01, except that such  
19 reports:

20 (a) Shall be made available for inspection or copying by the  
21 Nebraska Workers' Compensation Court pursuant to sections 84-712 to  
22 84-712.09 upon request:

23 (i) By the employee who is the subject of the report or by an  
24 attorney or authorized agent of such employee;

25 (ii) By the employer, workers' compensation insurer, risk management  
26 pool, or third-party administrator that is a party to the report or an  
27 attorney or authorized agent of such party;

28 (iii) By a third party for the purpose of identifying the number and  
29 nature of any injuries to any employees of an employer identified in the  
30 request, so long as the court redacts any information revealing the  
31 identity of any employee prior to releasing the reports; or

1        (iv) By a nonprofit organization for the purpose of sending  
2 condolences to, providing memorials for, and offering grief counseling to  
3 family members of an employee whose death was caused by a workplace  
4 incident; and

5        (b) Shall be disclosed by the court if the reports are requested for  
6 use in connection with a state or federal investigation or examination or  
7 for use by the state or federal government to compile statistical  
8 information.

9        Sec. 2. Original section 84-712.05, Revised Statutes Cumulative  
10 Supplement, 2018, is repealed.