

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 494

Introduced by Briese, 41.

Read first time January 17, 2017

Committee:

- 1 A BILL FOR AN ACT relating to public records; to amend section 84-712.05,
- 2 Revised Statutes Cumulative Supplement, 2016; to provide for
- 3 withholding certain public records; and to repeal the original
- 4 section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 84-712.05, Revised Statutes Cumulative
2 Supplement, 2016, 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 be withheld from the
6 public by the lawful custodian of the records:

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

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

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20 progress and unpublished, and other proprietary or commercial information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

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

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

1 tactical information used in law enforcement training, except that this
2 subdivision shall not apply to records so developed or received relating
3 to the presence of and amount or concentration of alcohol or drugs in any
4 body fluid of any person;

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

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

10 (8) Information solely pertaining to protection of the security of
11 public property and persons on or within public property, such as
12 specific, unique vulnerability assessments or specific, unique response
13 plans, either of which is intended to prevent or mitigate criminal acts
14 the public disclosure of which would create a substantial likelihood of
15 endangering public safety or property; computer or communications network
16 schema, passwords, and user identification names; guard schedules; lock
17 combinations; or public utility infrastructure specifications or design
18 drawings the public disclosure of which would create a substantial
19 likelihood of endangering public safety or property, unless otherwise
20 provided by state or federal law;

21 (9) Information relating to critical physical and cyber assets of
22 energy infrastructure, including, but not limited to, records, maps,
23 drawings, equipment, computer programs, data, identity of personnel
24 responsible for control or maintenance of such physical or cyber assets,
25 or other related information the disclosure of which would pose a threat
26 to public safety or the security of critical energy infrastructure;

27 (10) ~~(9)~~ The security standards, procedures, policies, plans,
28 specifications, diagrams, access lists, and other security-related
29 records of the Lottery Division of the Department of Revenue and those
30 persons or entities with which the division has entered into contractual
31 relationships. Nothing in this subdivision shall allow the division to

1 withhold from the public any information relating to amounts paid persons
2 or entities with which the division has entered into contractual
3 relationships, amounts of prizes paid, the name of the prize winner, and
4 the city, village, or county where the prize winner resides;

5 (11) ~~(10)~~ With respect to public utilities and except as provided in
6 sections 43-512.06 and 70-101, personally identified private citizen
7 account payment and customer use information, credit information on
8 others supplied in confidence, and customer lists;

9 (12) ~~(11)~~ Records or portions of records kept by a publicly funded
10 library which, when examined with or without other records, reveal the
11 identity of any library patron using the library's materials or services;

12 (13) ~~(12)~~ Correspondence, memoranda, and records of telephone calls
13 related to the performance of duties by a member of the Legislature in
14 whatever form. The lawful custodian of the correspondence, memoranda, and
15 records of telephone calls, upon approval of the Executive Board of the
16 Legislative Council, shall release the correspondence, memoranda, and
17 records of telephone calls which are not designated as sensitive or
18 confidential in nature to any person performing an audit of the
19 Legislature. A member's correspondence, memoranda, and records of
20 confidential telephone calls related to the performance of his or her
21 legislative duties shall only be released to any other person with the
22 explicit approval of the member;

23 (14) ~~(13)~~ Records or portions of records kept by public bodies which
24 would reveal the location, character, or ownership of any known
25 archaeological, historical, or paleontological site in Nebraska when
26 necessary to protect the site from a reasonably held fear of theft,
27 vandalism, or trespass. This section shall not apply to the release of
28 information for the purpose of scholarly research, examination by other
29 public bodies for the protection of the resource or by recognized tribes,
30 the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or
31 the federal Native American Graves Protection and Repatriation Act;

1 (15) ~~(14)~~ Records or portions of records kept by public bodies which
2 maintain collections of archaeological, historical, or paleontological
3 significance which reveal the names and addresses of donors of such
4 articles of archaeological, historical, or paleontological significance
5 unless the donor approves disclosure, except as the records or portions
6 thereof may be needed to carry out the purposes of the Unmarked Human
7 Burial Sites and Skeletal Remains Protection Act or the federal Native
8 American Graves Protection and Repatriation Act;

9 (16) ~~(15)~~ Job application materials submitted by applicants, other
10 than finalists or a priority candidate for a position described in
11 section 85-106.06 selected using the enhanced public scrutiny process in
12 section 85-106.06, who have applied for employment by any public body as
13 defined in section 84-1409. For purposes of this subdivision, (a) job
14 application materials means employment applications, resumes, reference
15 letters, and school transcripts and (b) finalist means any applicant who
16 is not an applicant for a position described in section 85-106.06 and (i)
17 who reaches the final pool of applicants, numbering four or more, from
18 which the successful applicant is to be selected, (ii) who is an original
19 applicant when the final pool of applicants numbers less than four, or
20 (iii) who is an original applicant and there are four or fewer original
21 applicants;

22 (17) ~~(16)~~ Records obtained by the Public Employees Retirement Board
23 pursuant to section 84-1512;

24 (18) ~~(17)~~ Social security numbers; credit card, charge card, or
25 debit card numbers and expiration dates; and financial account numbers
26 supplied to state and local governments by citizens;

27 (19) ~~(18)~~ Information exchanged between a jurisdictional utility and
28 city pursuant to section 66-1867;

29 (20) ~~(19)~~ Draft records obtained by the Nebraska Retirement Systems
30 Committee of the Legislature and the Governor from Nebraska Public
31 Employees Retirement Systems pursuant to subsection (4) of section

1 84-1503; and

2 (21) ~~(20)~~ All prescription drug information submitted pursuant to
3 section 71-2454, all data contained in the prescription drug monitoring
4 system, and any report obtained from data contained in the prescription
5 drug monitoring system.

6 Sec. 2. Original section 84-712.05, Revised Statutes Cumulative
7 Supplement, 2016, is repealed.