

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; 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 to the Director of the Legislative Counsel Bureau; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes certain governmental entities to collect certain personal
2 information. (Chapter 239B of NRS) **Section 3** of this bill makes certain legislative
3 findings and declarations related to the collection by governmental agencies of
4 demographic information related to sexual orientation and gender identity. **Section**
5 **2** of this bill defines “governmental agency” to include any unit of government of
6 the State or a local government. **Section 4** of this bill: (1) requires a governmental
7 agency that collects from a person demographic information related to the person’s
8 race or ethnicity to also request information related to the person’s sexual
9 orientation and gender identity; (2) provides, with limited exception, that such
10 information is confidential; and (3) authorizes the governmental agency to use such
11 information only for certain purposes. **Section 4** also provides that no person shall
12 be required to provide to a governmental entity any information related to the
13 person’s sexual orientation or gender identity or denied services or assistance for
14 failure to provide such information. **Section 4** further requires a governmental
15 agency to submit an annual report to the Director of the Legislative Counsel Bureau



16 that includes a summary of the information received related to sexual orientation
17 and gender identity.
18 **Section 5** of this bill makes a conforming change relating to the confidentiality
19 of the information collected by a governmental agency related to sexual orientation
20 and gender identity.

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

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

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

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

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

13 *2. Various governmental agencies collect demographic*
14 *information on race and ethnicity but there is limited collection by*
15 *governmental agencies of demographic information related to*
16 *sexual orientation and gender identity.*

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

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

27 **Sec. 4.** *1. A governmental agency that collects from a*
28 *person demographic information related to the person's race or*
29 *ethnicity shall also request information related to the person's*
30 *sexual orientation and gender identity. Except as otherwise*
31 *provided in this section, all information related to a person's*
32 *sexual orientation or gender that is received by a governmental*
33 *agency is confidential.*

34 *2. No person shall be:*



1 (a) Required to provide to a governmental entity any
2 information related to the person's sexual orientation or gender
3 identity; or

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

7 3. A governmental entity that receives information related to
8 a person's sexual orientation or gender identity may only use such
9 information for demographic analysis, coordination of care and
10 services, improvement of care and services, conducting research,
11 fulfilling a reporting requirement pursuant to federal or state law
12 or informing policy or funding decisions.

13 4. On or before December 31 of each year, a governmental
14 agency shall submit to the Director of the Legislative Counsel
15 Bureau for transmittal to the Legislature or, if the Legislature is
16 not in session, to the Legislative Commission, a summary of the
17 information received by the governmental agency related to sexual
18 orientation or gender including, without limitation, the number of
19 people who identify as lesbian, gay, bisexual or transgender,
20 according to race and gender. All information must be reported in
21 the aggregate and must not include any personally identifying
22 information.

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

24 239.010 1. Except as otherwise provided in this section and
25 NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293,
26 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170,
27 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113,
28 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200,
29 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345,
30 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880,
31 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280,
32 119A.653, 119A.677, 119B.370, 119B.382, 120A.690, 125.130,
33 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,
34 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050,
35 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015,
36 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
37 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771,
38 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392,
39 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140,
40 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
41 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240,
42 218G.350, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069,
43 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239.014,
44 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230,
45 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030,



1 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560,
2 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490,
3 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350,
4 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068,
5 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830,
6 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870,
7 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061,
8 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725,
9 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049,
10 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
11 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180,
12 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008,
13 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455,
14 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249,
15 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147,
16 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335,
17 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460,
18 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685,
19 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153,
20 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350,
21 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,
22 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,
23 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207,
24 439.4941, 439.840, 439.914, 439B.420, 439B.754, 439B.760,
25 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,
26 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345,
27 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188,
28 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
29 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
30 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545,
31 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536,
32 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484E.070,
33 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160,
34 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090,
35 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012,
36 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238,
37 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425,
38 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,
39 630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368,
40 632.121, 632.125, 632.3415, 632.405, 633.283, 633.301, 633.4715,
41 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
42 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
43 640A.220, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745,
44 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325,
45 641A.191, 641A.262, 641A.289, 641B.170, 641B.282, 641B.460,



1 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180,
2 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,
3 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,
4 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228,
5 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133,
6 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380,
7 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800,
8 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285,
9 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540,
10 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
11 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696,
12 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538,
13 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120,
14 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and*
15 *section 4 of this act*, sections 35, 38 and 41 of chapter 478, Statutes
16 of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada
17 2013 and unless otherwise declared by law to be confidential, all
18 public books and public records of a governmental entity must be
19 open at all times during office hours to inspection by any person,
20 and may be fully copied or an abstract or memorandum may be
21 prepared from those public books and public records. Any such
22 copies, abstracts or memoranda may be used to supply the general
23 public with copies, abstracts or memoranda of the records or may be
24 used in any other way to the advantage of the governmental entity or
25 of the general public. This section does not supersede or in any
26 manner affect the federal laws governing copyrights or enlarge,
27 diminish or affect in any other manner the rights of a person in any
28 written book or record which is copyrighted pursuant to federal law.
29 2. A governmental entity may not reject a book or record
30 which is copyrighted solely because it is copyrighted.
31 3. A governmental entity that has legal custody or control of a
32 public book or record shall not deny a request made pursuant to
33 subsection 1 to inspect or copy or receive a copy of a public book or
34 record on the basis that the requested public book or record contains
35 information that is confidential if the governmental entity can
36 redact, delete, conceal or separate, including, without limitation,
37 electronically, the confidential information from the information
38 included in the public book or record that is not otherwise
39 confidential.
40 4. If requested, a governmental entity shall provide a copy of a
41 public record in an electronic format by means of an electronic
42 medium. Nothing in this subsection requires a governmental entity
43 to provide a copy of a public record in an electronic format or by
44 means of an electronic medium if:
45 (a) The public record:



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

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

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

5 (1) Give access to proprietary software; or

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

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

11 (a) Shall not refuse to provide a copy of that public record in the
12 medium that is requested because the officer, employee or agent has
13 already prepared or would prefer to provide the copy in a different
14 medium.

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

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

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

