

SENATE BILL NO. 388—SENATOR DENIS

MARCH 20, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to public records.
(BDR 19-827)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 public records; providing for the designation of certain public records and portions of public records as confidential; requiring a governmental entity to grant a request to copy such records under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law generally authorizes members of the public to inspect or copy
2 public records not declared by law to be confidential. (NRS 239.010) **Section 1** of
3 this bill provides that a record or portion of a record that contains personally
4 identifiable information collected by a governmental entity as part of the electronic
5 collection of information from the general public is confidential if the governmental
6 entity determines that the disclosure of the personally identifiable information
7 could create negative consequences for the person to whom the record pertains.
8 **Section 1** additionally requires a governmental entity to maintain a list of records
9 and portions of records declared confidential under such circumstances. **Section 1**
10 requires the governmental entity to grant a request to inspect or copy such a record
11 or portion of a record declared confidential under such circumstances if the
12 requester demonstrates a compelling justification that outweighs the risk of
13 potential negative consequences. **Section 1** requires a governmental entity to
14 submit to the Legislature an annual report that includes a description of each record
15 determined to be confidential under such circumstances and the reasons for that
16 determination.



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

1 **Section 1.** Chapter 239 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *Except as otherwise provided in subsection 3, a record or*
4 *portion of a record that contains personally identifiable*
5 *information collected by a governmental entity as part of the*
6 *electronic collection of information from the general public is*
7 *confidential if the governmental entity determines that the*
8 *disclosure of the personally identifiable information could*
9 *potentially create negative consequences, including, without*
10 *limitation, financial loss, stigmatization, harm to reputation,*
11 *anxiety, embarrassment, fear or other physical or emotional harm,*
12 *for the person to whom the information pertains.*

13 2. *Each governmental entity shall maintain a list of records*
14 *and portions of records determined to be confidential pursuant to*
15 *subsection 1. The list must describe each record or portion of a*
16 *record without revealing any personally identifiable information*
17 *contained in the record.*

18 3. *A governmental entity shall grant a request pursuant to*
19 *NRS 239.010 to inspect or copy a record or portion of a record*
20 *determined to be confidential pursuant to subsection 1 if the*
21 *requester demonstrates a compelling operational, administrative,*
22 *legal or educational justification for inspecting or copying the*
23 *record or portion of a record, as applicable, that, in the*
24 *determination of the governmental entity, outweighs the risk of*
25 *potential negative consequences to the person to whom the record*
26 *pertains.*

27 4. *On or before February 15 of each year, a governmental*
28 *entity shall:*

29 (a) *Prepare a report that provides a detailed description of*
30 *each record or portion of a record determined to be confidential*
31 *pursuant to subsection 1 and an explanation of the reasons for*
32 *that determination. The report must not include any personally*
33 *identifiable information.*

34 (b) *Submit the report to the Director of the Legislative Counsel*
35 *Bureau for transmittal to:*

36 (1) *If the Legislature is in session, the standing committees*
37 *of the Legislature which have jurisdiction of the subject matter; or*

38 (2) *If the Legislature is not in session, the Legislative*
39 *Commission.*

40 5. *As used in this section, "personally identifiable*
41 *information" means information that, alone or in combination*
42 *with other information, may be used to identify a person or an*



1 *electronic device used by the person. The term includes, without*
2 *limitation, the name, address, telephone number, date of birth, and*
3 *directory information of a person.*

4 **Sec. 2.** NRS 239.010 is hereby amended to read as follows:

5 239.010 1. Except as otherwise provided in this section and
6 NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293,
7 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170,
8 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113,
9 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200,
10 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345,
11 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880,
12 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280,
13 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140,
14 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130,
15 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044,
16 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625,
17 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691,
18 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772,
19 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925,
20 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131,
21 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625,
22 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450,
23 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105,
24 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210,
25 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030,
26 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560,
27 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910,
28 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685,
29 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438,
30 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503,
31 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510,
32 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379,
33 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,
34 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247,
35 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180,
36 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495,
37 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,
38 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035,
39 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315,
40 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698,
41 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535,
42 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484,
43 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350,
44 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,
45 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,



1 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170,
2 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735,
3 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140,
4 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
5 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
6 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940,
7 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363,
8 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452,
9 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964,
10 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710,
11 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341,
12 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327,
13 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047,
14 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368,
15 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055,
16 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087,
17 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730,
18 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190,
19 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170,
20 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870,
21 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092,
22 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375,
23 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033,
24 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115,
25 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450,
26 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122,
27 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270,
28 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077,
29 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010,
30 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190,
31 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420,
32 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320,
33 704B.325, 706.1725, 706A.230, 710.159, 711.600 **§** and section 1
34 **of this act**, sections 35, 38 and 41 of chapter 478, Statutes of
35 Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013
36 and unless otherwise declared by law to be confidential, all public
37 books and public records of a governmental entity must be open at
38 all times during office hours to inspection by any person, and may
39 be fully copied or an abstract or memorandum may be prepared
40 from those public books and public records. Any such copies,
41 abstracts or memoranda may be used to supply the general public
42 with copies, abstracts or memoranda of the records or may be used
43 in any other way to the advantage of the governmental entity or of
44 the general public. This section does not supersede or in any manner
45 affect the federal laws governing copyrights or enlarge, diminish or



1 affect in any other manner the rights of a person in any written book
2 or record which is copyrighted pursuant to federal law.

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

5 3. A governmental entity that has legal custody or control of a
6 public book or record shall not deny a request made pursuant to
7 subsection 1 to inspect or copy or receive a copy of a public book or
8 record on the basis that the requested public book or record contains
9 information that is confidential if the governmental entity can
10 redact, delete, conceal or separate the confidential information from
11 the information included in the public book or record that is not
12 otherwise confidential.

13 4. A person may request a copy of a public record in any
14 medium in which the public record is readily available. An officer,
15 employee or agent of a governmental entity who has legal custody
16 or control of a public record:

17 (a) Shall not refuse to provide a copy of that public record in a
18 readily available medium because the officer, employee or agent has
19 already prepared or would prefer to provide the copy in a different
20 medium.

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

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

28 **Sec. 4.** This act becomes effective on July 1, 2019.



