

ASSEMBLY BILL NO. 258—ASSEMBLYWOMAN BACKUS

MARCH 7, 2023

Referred to Committee on Government Affairs

SUMMARY—Enacts certain provisions governing the confidentiality of certain personal information of a donor, member or volunteer of a nonprofit organization. (BDR 19-605)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. 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 governmental administration; requiring, with certain exceptions, a governmental agency to keep confidential certain personal information regarding donors, members or volunteers of a nonprofit organization; prohibiting, with certain exceptions, a governmental agency from requesting or releasing certain personal information regarding donors, members or volunteers of a nonprofit organization; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law authorizes certain governmental agencies to collect certain
- 2 personal information. (Chapter 239B of NRS) Existing law also prohibits, with
- 3 certain exceptions, a governmental agency from requiring a person to include
- 4 personal information on any document submitted to the governmental agency after
- 5 a certain date. (NRS 239B.030) **Section 2** of this bill requires, with certain
- 6 exceptions, a governmental agency to keep confidential any personal information in
- 7 the records of the governmental agency that identifies a person as a donor, member
- 8 or volunteer of a nonprofit organization. **Section 2** also prohibits, with certain
- 9 exceptions, a governmental agency from: (1) requiring that any person or nonprofit
- 10 organization provide the agency with personal information that identifies a donor,
- 11 member or volunteer of a nonprofit organization; (2) releasing, publicizing or
- 12 otherwise publicly disclosing personal information that identifies a donor, member
- 13 or volunteer of a nonprofit organization; or (3) requesting or requiring a current or



14 prospective contractor or grantee to provide a list of nonprofit organizations to
15 which the contractor or grantee has provided support. **Section 2** provides that the
16 personal information that identifies a donor, member or volunteer of a nonprofit
17 organization includes any list, record, register, roster or other data of any kind that
18 includes a donation, name, address or telephone number that directly or indirectly
19 identifies a person as a donor of financial or nonfinancial support, member or
20 volunteer of any nonprofit organization.

21 **Section 2** provides that a person who believes that a governmental agency or an
22 officer or employee of a governmental agency has violated these provisions may
23 bring a civil action to obtain certain relief, including damages in an amount of not
24 less than: (1) \$2,500 for a violation; and (2) \$7,500 for an intentional violation.

25 **Section 2** further provides that any officer or employee of a governmental agency
26 who knowingly and willfully violates these provisions is guilty of a misdemeanor.

27 **Section 1** of this bill makes a conforming change to provide that such personal
28 information is not a public record.

29 **Section 3** of this bill makes a conforming change to prohibit the Secretary of
30 State, in carrying out certain requirements of existing law, from collecting or
31 disclosing any information that directly identifies a person as a donor of financial
32 support to a nonprofit organization.

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

1 **Section 1.** NRS 239.010 is hereby amended to read as follows:
2 239.010 1. Except as otherwise provided in this section and
3 NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095,
4 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030,
5 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152,
6 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413,
7 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345,
8 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270,
9 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280,
10 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.640,
11 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730,
12 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312,
13 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.015,
14 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
15 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771,
16 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392,
17 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140,
18 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
19 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240,
20 218G.350, 224.240, 226.300, 228.270, 228.450, 228.495, 228.570,
21 231.069, 231.1473, 232.1369, 233.190, 237.300, 239.0105,
22 239.0113, 239.014, 239B.026, 239B.030, 239B.040, 239B.050,
23 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420,
24 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335,
25 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150,



1 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195,
2 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755,
3 281A.780, 284.4068, 284.4086, 286.110, 286.118, 287.0438,
4 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503,
5 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910,
6 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335,
7 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420,
8 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,
9 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242,
10 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080,
11 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830,
12 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503,
13 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035,
14 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271,
15 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045,
16 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465,
17 396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525,
18 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888,
19 408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305,
20 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028,
21 432.205, 432B.175, 432B.280, 432B.290, 432B.4018, 432B.407,
22 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534,
23 433A.360, 439.4941, 439.4988, 439.840, 439.914, 439A.116,
24 439A.124, 439B.420, 439B.754, 439B.760, 439B.845, 440.170,
25 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735,
26 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209,
27 449.245, 449.4315, 449A.112, 450.140, 450B.188, 450B.805,
28 453.164, 453.720, 458.055, 458.280, 459.050, 459.3866, 459.555,
29 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,
30 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940,
31 481.063, 481.091, 481.093, 482.170, 482.368, 482.5536, 483.340,
32 483.363, 483.575, 483.659, 483.800, 484A.469, 484B.830,
33 484B.833, 484E.070, 485.316, 501.344, 503.452, 522.040,
34 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098,
35 598A.110, 598A.420, 599B.090, 603.070, 603A.210, 604A.303,
36 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
37 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110,
38 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230,
39 628B.760, 629.047, 629.069, 630.133, 630.2671, 630.2672,
40 630.2673, 630.30665, 630.336, 630A.327, 630A.555, 631.332,
41 631.368, 632.121, 632.125, 632.3415, 632.3423, 632.405, 633.283,
42 633.301, 633.4715, 633.4716, 633.4717, 633.524, 634.055,
43 634.1303, 634.214, 634A.169, 634A.185, 635.111, 635.158,
44 636.262, 636.342, 637.085, 637.145, 637B.192, 637B.288, 638.087,
45 638.089, 639.183, 639.2485, 639.570, 640.075, 640.152, 640A.185,



1 640A.220, 640B.405, 640B.730, 640C.580, 640C.600, 640C.620,
2 640C.745, 640C.760, 640D.135, 640D.190, 640E.225, 640E.340,
3 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217,
4 641A.262, 641B.170, 641B.281, 641B.282, 641C.455, 641C.760,
5 641D.260, 641D.320, 642.524, 643.189, 644A.870, 645.180,
6 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,
7 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,
8 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126,
9 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130,
10 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480,
11 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710,
12 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190,
13 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410,
14 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306,
15 687A.060, 687A.115, 687B.404, 687C.010, 688C.230, 688C.480,
16 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536,
17 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550,
18 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159,
19 711.600, *and section 2 of this act*, sections 35, 38 and 41 of chapter
20 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes
21 of Nevada 2013 and unless otherwise declared by law to be
22 confidential, all public books and public records of a governmental
23 entity must be open at all times during office hours to inspection by
24 any person, and may be fully copied or an abstract or memorandum
25 may be prepared from those public books and public records. Any
26 such copies, abstracts or memoranda may be used to supply the
27 general public with copies, abstracts or memoranda of the records or
28 may be used in any other way to the advantage of the governmental
29 entity or of the general public. This section does not supersede or in
30 any manner affect the federal laws governing copyrights or enlarge,
31 diminish or affect in any other manner the rights of a person in any
32 written book or record which is copyrighted pursuant to federal law.
33 2. A governmental entity may not reject a book or record
34 which is copyrighted solely because it is copyrighted.
35 3. A governmental entity that has legal custody or control of a
36 public book or record shall not deny a request made pursuant to
37 subsection 1 to inspect or copy or receive a copy of a public book or
38 record on the basis that the requested public book or record contains
39 information that is confidential if the governmental entity can
40 redact, delete, conceal or separate, including, without limitation,
41 electronically, the confidential information from the information
42 included in the public book or record that is not otherwise
43 confidential.
44 4. If requested, a governmental entity shall provide a copy of a
45 public record in an electronic format by means of an electronic



1 medium. Nothing in this subsection requires a governmental entity
2 to provide a copy of a public record in an electronic format or by
3 means of an electronic medium if:

4 (a) The public record:

- 5 (1) Was not created or prepared in an electronic format; and
6 (2) Is not available in an electronic format; or

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

9 (1) Give access to proprietary software; or

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

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

15 (a) Shall not refuse to provide a copy of that public record in the
16 medium that is requested because the officer, employee or agent has
17 already prepared or would prefer to provide the copy in a different
18 medium.

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

23 **Sec. 2.** Chapter 239B of NRS is hereby amended by adding
24 thereto a new section to read as follows:

25 *1. Except as otherwise provided in subsection 3, a*
26 *governmental agency shall maintain in a confidential manner any*
27 *personal information that identifies a person as a donor, member*
28 *or volunteer of a nonprofit organization.*

29 *2. Except as otherwise provided in subsection 3, a*
30 *governmental agency shall not:*

31 *(a) Require any person or nonprofit organization to provide*
32 *the governmental agency with personal information that identifies*
33 *a person as a donor, member or volunteer of a nonprofit*
34 *organization or otherwise compel the release of such personal*
35 *information;*

36 *(b) Release, publicize or otherwise publicly disclose personal*
37 *information in possession of the governmental agency that*
38 *identifies a person as a donor, member or volunteer of a nonprofit*
39 *organization; or*

40 *(c) Request or require a current or prospective contractor or*
41 *grantee working with the governmental agency to provide a list of*
42 *nonprofit organizations to which the contractor or grantee has*
43 *provided financial or nonfinancial support.*

44 *3. The provisions of subsections 1 and 2 do not apply to*
45 *personal information that identifies a person as a donor, member*



1 *or volunteer of a nonprofit organization that is requested,*
2 *obtained, released or disclosed as a result of the following:*

3 *(a) Any personal information required to be disclosed for the*
4 *purpose of complying with any provision of federal law;*

5 *(b) Any information, report or disclosure required to be filed*
6 *with the Secretary of State pursuant to title 7 of NRS provided*
7 *that, except as otherwise provided in this subsection, any*
8 *information that directly identifies a person as a donor of*
9 *financial support to a nonprofit organization must not be collected*
10 *or disclosed;*

11 *(c) Any report or disclosure required to be filed pursuant to*
12 *chapter 294A of NRS;*

13 *(d) Any confidential information shared pursuant to*
14 *NRS 232.357;*

15 *(e) Any warrant issued by a court of competent jurisdiction;*

16 *(f) Any request for information in connection with discovery*
17 *proceedings if:*

18 *(1) The requester demonstrates a compelling need by clear*
19 *and convincing evidence for the information; and*

20 *(2) The requester obtains a protective order from the court*
21 *barring the disclosure of such information to any person not*
22 *named in the proceedings;*

23 *(g) Any personal information voluntarily released by a person*
24 *to the governmental agency or any personal information*
25 *voluntarily released by a nonprofit organization to the public;*

26 *(h) Any personal information resulting from a donation to a*
27 *nonprofit organization that is affiliated with a governmental*
28 *agency that was disclosed to the governmental agency pursuant to*
29 *state law if the person did not request anonymity from the*
30 *nonprofit organization;*

31 *(i) Any personal information admitted as evidence before a*
32 *court of competent jurisdiction, if the court finds there is good*
33 *cause for the public release of such information;*

34 *(j) Any requests for screenings submitted by a nonprofit*
35 *organization pursuant to NRS 179A.325;*

36 *(k) Any contract or agreement entered into by a nonprofit*
37 *organization with a governmental agency, including for purposes*
38 *of obtaining a governmental benefit or grant, whereby the*
39 *governmental agency is authorized to or any statute which*
40 *expressly authorizes a governmental agency to inspect the records*
41 *of the nonprofit organization, including, without limitation, a*
42 *contract or agreement entered into pursuant to NRS 427A.085,*
43 *433.354, 433B.220 or 439.155;*

44 *(l) Any report required to be filed by a nonprofit organization*
45 *and posted by the Department of Health and Human Services on*



1 *the Internet website maintained by the Department pursuant to*
2 *NRS 439B.665 and 439B.670;*

3 *(m) Any information required to be filed by a nonprofit*
4 *organization of surplus line brokers with the Commissioner of*
5 *Insurance pursuant to NRS 685A.075; and*

6 *(n) Any information submitted to a governmental agency by a*
7 *national securities association that is registered pursuant to 15*
8 *U.S.C. § 78o-3 or any regulation adopted pursuant thereto.*

9 *4. Any person who believes that a governmental agency or an*
10 *officer or employee of a governmental agency has violated the*
11 *provisions of subsection 1 or 2 may bring a civil action in a court*
12 *of competent jurisdiction. If the person prevails, the person is*
13 *entitled to receive any or all of the following relief:*

14 *(a) Injunctive relief as the court deems appropriate;*

15 *(b) Costs incurred in bringing the action, including, without*
16 *limitation, reasonable attorney's fees;*

17 *(c) Except as otherwise provided in paragraph (d), damages of*
18 *not less than \$2,500; and*

19 *(d) If the court determines that a governmental agency or*
20 *officer or employee of a governmental agency intentionally*
21 *violated the provisions of this section, damages of not less than*
22 *\$7,500.*

23 *5. Any officer or employee of a governmental agency who*
24 *knowingly and willfully violates the provisions of subsection 1 or 2*
25 *is guilty of a misdemeanor and shall be punished by imprisonment*
26 *in the county jail for not more than 90 days, or by a fine of not*
27 *more than \$1,000, or by both fine and imprisonment.*

28 *6. For the purposes of this section, personal information that*
29 *identifies a person as a donor, member or volunteer of a nonprofit*
30 *organization:*

31 *(a) Includes, without limitation, any list, record, register,*
32 *roster or other data of any kind that includes a donation, name,*
33 *address or telephone number that directly or indirectly identifies a*
34 *person as a donor of financial or nonfinancial support, member or*
35 *volunteer of any nonprofit organization; and*

36 *(b) Does not include information that identifies a person as a*
37 *staff member, employee or contractor of a nonprofit organization.*

38 *7. As used in this section:*

39 *(a) "Governmental agency" means an officer, board,*
40 *commission, department, division, bureau, district or any other*
41 *unit of government of the State or a local government.*

42 *(b) "Nonprofit organization" means:*

43 *(1) An organization which qualifies as tax exempt pursuant*
44 *to section 501(c) of the Internal Revenue Code;*



1 (2) *Any entity that has submitted an application with the*
2 *Internal Revenue Service for recognition as a tax exempt entity*
3 *pursuant to section 501(c) of the Internal Revenue Code; and*

4 (3) *Any other organization recognized as a nonprofit*
5 *organization pursuant to state law.*

6 **Sec. 3.** Chapter 75 of NRS is hereby amended by adding
7 thereto a new section to read as follows:

8 *Pursuant to section 2 of this act, in carrying out the*
9 *requirements of this title, the Secretary of State shall not collect or*
10 *disclose any information that directly identifies a person as a*
11 *donor of financial support to a nonprofit organization.*

