
ASSEMBLY BILL NO. 462—COMMITTEE ON JUDICIARY

MARCH 24, 2003

Referred to Committee on Judiciary

SUMMARY—Limits access to records related to homeland security. (BDR 19-1282)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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; limiting access to records related to homeland security; and providing other matters properly relating thereto.

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 the provisions set forth as sections 2 to 7, inclusive, of this
3 act.
4 **Sec. 2.** *“Actual cost” means the direct cost related to the*
5 *reproduction of a public record. The term does not include a cost*
6 *that a governmental entity incurs regardless of whether a person*
7 *requests a copy of a particular record.*
8 **Sec. 3.** *“Committee” means the Committee to Approve*
9 *Schedules for the Retention and Disposition of Official State*
10 *Records.*
11 **Sec. 4.** *“Division” means the Division of State Library and*
12 *Archives of the Department of Cultural Affairs.*
13 **Sec. 5.** *“Governmental entity” means:*
14 1. *An elected or appointed officer of this state or of a political*
15 *subdivision of this state;*
16 2. *An institution, board, commission, bureau, council,*
17 *department, division, authority or other unit of government of this*
18 *state or of a political subdivision of this state;*
19 3. *A university foundation, as defined in NRS 396.405; or*



1 4. *An educational foundation, as defined in NRS 388.750, to*
2 *the extent that the foundation is dedicated to the assistance of*
3 *public schools.*

4 **Sec. 6.** *“Record related to homeland security” means a*
5 *public record which is, based upon the history of terrorism or on*
6 *current events, designated by the custodian of the record to have a*
7 *high potential for use by foreign or domestic terrorists planning*
8 *an attack. The term includes, but is not limited to:*

- 9 1. *Airport parking positions for aircraft;*
- 10 2. *The location of airport radio beacons;*
- 11 3. *Immunization statistics;*
- 12 4. *Health plans and reviews of those plans;*
- 13 5. *Information concerning use of explosives and permits for*
14 *such use;*
- 15 6. *Plans for recovery from disasters;*
- 16 7. *Records of emergency exercises;*
- 17 8. *Records of training exercises for emergency management;*
18 *and*
- 19 9. *Blueprints or plans of schools, places of worship, airports,*
20 *police and fire stations, hotels, casinos, courthouses, federal*
21 *buildings, production, storage or transfer facilities operated by*
22 *public utilities, or other potential targets for terrorist attacks.*

23 **Sec. 7. 1.** *A public officer or employee who is the custodian*
24 *of a record related to homeland security shall establish a log to*
25 *track inspection of any such record, the persons requesting to*
26 *inspect the record, and the purpose of the inspection. The log must*
27 *include, without limitation:*

- 28 (a) *The name of the person who inspects the record;*
 - 29 (b) *The name of the employer of each person who inspects the*
30 *record, if any;*
 - 31 (c) *The citizenship of each person who inspects the record;*
 - 32 (d) *The date and time that the record was inspected;*
 - 33 (e) *A copy of photographic identification, issued by a*
34 *governmental entity or a federal agency, of the person who*
35 *inspects the record; and*
 - 36 (f) *Except as otherwise provided in subsection 3, the purpose*
37 *for inspecting the record.*
- 38 2. *A public officer or employee shall not allow a person to*
39 *inspect a record related to homeland security unless the person*
40 *seeking to inspect the record provides all of the information*
41 *required for the log maintained pursuant to subsection 1.*
- 42 3. *A person is not required to indicate the purpose for*
43 *inspecting a record related to homeland security if the person*
44 *presents satisfactory documentation that he is:*
- 45 (a) *An employee of the news media;*



- 1 (b) *An employee of a governmental entity;*
- 2 (c) *A registered architect or licensed contractor, or a*
- 3 *designated employee of an architect or contractor; or*
- 4 (d) *An emergency services worker.*

5 4. *The log maintained pursuant to subsection 1 is not a public*
 6 *record and may only be inspected by:*

- 7 (a) *A representative of a law enforcement agency of the*
- 8 *Federal Government, the State or its political subdivisions; or*
- 9 (b) *An employee of the news media.*

10 5. *A record related to homeland security must not be copied,*
 11 *duplicated or reproduced in any way except:*

- 12 (a) *When necessary during an emergency;*
- 13 (b) *To protect the rights and obligations of a governmental*
- 14 *entity or members of the general public; or*
- 15 (c) *Pursuant to a court order.*

16 *A public officer or employee who allows a person to inspect a*
 17 *record related to homeland security shall inform the person that,*
 18 *except as authorized in this subsection, copying, duplicating or*
 19 *reproducing the record in any way is prohibited.*

20 6. *A public officer or employee shall not allow the*
 21 *unsupervised inspection of a record related to homeland security.*
 22 *Such a record may only be inspected in an area that may be*
 23 *monitored by employees of the public agency. A public officer or*
 24 *employee shall supervise the inspection of the record to the extent*
 25 *necessary to ensure that the person inspecting the record does not*
 26 *reproduce or otherwise misuse the record.*

27 7. *Nothing in this section prevents a public officer or*
 28 *employee from contacting a law enforcement agency to report a*
 29 *suspicious or unusual request to inspect a record related to*
 30 *homeland security.*

31 **Sec. 8.** NRS 239.005 is hereby amended to read as follows:
 32 239.005 As used in this chapter, unless the context otherwise
 33 requires ~~it~~:

- 34 ~~1. "Actual cost" means the direct cost related to the~~
- 35 ~~reproduction of a public record. The term does not include a cost~~
- 36 ~~that a governmental entity incurs regardless of whether or not a~~
- 37 ~~person requests a copy of a particular public record.~~
- 38 ~~2. "Committee" means the Committee to Approve Schedules~~
- 39 ~~for the Retention and Disposition of Official State Records.~~
- 40 ~~3. "Division" means the Division of State Library and Archives~~
- 41 ~~of the Department of Cultural Affairs.~~
- 42 ~~4. "Governmental entity" means:~~
- 43 ~~(a) An elected or appointed officer of this state or of a political~~
- 44 ~~subdivision of this state;~~



1 ~~—(b) An institution, board, commission, bureau, council,~~
2 ~~department, division, authority or other unit of government of this~~
3 ~~state or of a political subdivision of this state;~~

4 ~~—(c) A university foundation, as defined in NRS 396.405; or~~

5 ~~—(d) An educational foundation, as defined in NRS 388.750, to~~
6 ~~the extent that the foundation is dedicated to the assistance of public~~
7 ~~schools.], the words and terms defined in sections 2 to 6, inclusive,~~
8 ~~of this act, have the meanings ascribed to them in those sections.~~

9 **Sec. 9.** NRS 239.010 is hereby amended to read as follows:

10 239.010 1. ~~[A]~~ *Except as otherwise provided in section 7*
11 *of this act, all* public books and public records of a governmental
12 entity, the contents of which are not otherwise declared by law to be
13 confidential, must be open at all times during office hours to
14 inspection by any person, and may be fully copied or an abstract or
15 memorandum may be prepared from those public books and public
16 records. Any such copies, abstracts or memoranda may be used to
17 supply the general public with copies, abstracts or memoranda of the
18 records or may be used in any other way to the advantage of the
19 governmental entity or of the general public. This section does not
20 supersede or in any manner affect the federal laws governing
21 copyrights or enlarge, diminish or affect in any other manner the
22 rights of a person in any written book or record which is
23 copyrighted pursuant to federal law.

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

26 3. ~~[A]~~ *Except as otherwise provided in section 7 of this act, a*
27 person may request a copy of a public record in any medium in
28 which the public record is readily available. An officer, employee or
29 agent of a governmental entity who has custody of a public record
30 shall not refuse to provide a copy of that public record in a readily
31 available medium because he has already prepared or would prefer
32 to provide the copy in a different medium.

33 **Sec. 10.** This act becomes effective upon passage and
34 approval.

