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A.B. 142

ASSEMBLY BILL NO. 142—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE LAS VEGAS POLICE
PROTECTIVE ASSOCIATION)

FEBRUARY 25, 2005

Referred to Committee on Government Affairs

SUMMARY—Authorizes certain persons to have personal information contained in certain public records kept confidential in certain circumstances. (BDR 20-952)

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; authorizing certain persons to have personal information contained in the records of a county assessor kept confidential; authorizing a county assessor to create a program for the disclosure of confidential information for certain purposes; providing penalties for disclosing confidential information about certain persons; prohibiting the disclosure of certain records of the Department of Motor Vehicles for journalistic purposes in certain circumstances; providing civil and criminal penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law requires certain books and records of a governmental entity to be
- 2 open for public inspection. (NRS 239.010) Books and records of a governmental
- 3 entity are not required to be open for public inspection if they are deemed by statute
- 4 to be confidential or if the governmental entity determines pursuant to a balancing
- 5 test that disclosure is not required. (*Donrey v. Bradshaw*, 106 Nev. 630 (1990))
- 6 This bill authorizes certain governmental officers and other persons to request
- 7 that a county assessor keep confidential certain personal information about such
- 8 officers and persons. This bill provides that, after such a request is made, the county
- 9 assessor must keep the personal information confidential, except that the county
- 10 assessor may provide the information to other governmental entities in carrying out



11 their functions and for use in connection with certain legal and administrative
12 proceedings and for use in certain investigatory, statistical and marketing activities.

13 This bill also allows a county assessor to establish a program by which certain
14 qualified persons may request a complete list of the assessor's roll, including
15 confidential information. The county assessor is authorized to charge a reasonable
16 fee to cover the costs of the program.

17 This bill makes it a misdemeanor, except in limited circumstances when a
18 greater penalty is provided, for a person to make a false representation to obtain
19 confidential information from a county assessor and to knowingly obtain or
20 disclose such information for unauthorized purposes. This bill also authorizes a
21 civil penalty of up to \$2,500 for committing such an act.

22 This bill further makes it a crime to disclose confidential information about
23 certain persons involved in law enforcement or the surviving spouse or child of a
24 peace officer killed in the line of duty that is obtained from the records of the
25 county assessor, from a list of registered voters or from certain records of the
26 Department of Motor Vehicles if the person who makes the disclosure knows or
27 reasonably should know that disclosure creates a substantial risk of bodily harm to
28 the person about whom the information pertains. A person who makes such a
29 disclosure is guilty of a misdemeanor, a gross misdemeanor or a category D felony,
30 depending upon the extent of any resulting bodily harm to the person about whom
31 the information pertains. This bill also authorizes a civil penalty of up to \$2,500 for
32 committing such an act.

33 This bill also prohibits the Director of the Department of Motor Vehicles from
34 disclosing certain information about certain governmental officers and other
35 persons for purposes related to journalism, unless the person about whom the
36 information is requested specifically authorizes the disclosure in writing.

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

1 **Section 1.** Chapter 250 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 15, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 15, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 3 and 4 of this act have the meanings ascribed to them*
7 *in those sections.*

8 **Sec. 3.** *“Confidential information” means personal*
9 *information deemed confidential pursuant to section 5 of this act.*

10 **Sec. 4.** *“Personal information” means:*

- 11 *1. The home address of the person;*
- 12 *2. The home address of the spouse or minor child of the*
13 *person;*
- 14 *3. Any photograph of the home of the person; and*
- 15 *4. Any photograph of the home of the spouse or minor child*
16 *of the person,*
17 *↳ but does not include an assessor's parcel number.*

18 **Sec. 5. 1.** *Any person who submits proof that he qualifies*
19 *as a person listed in section 6 of this act may submit a written*



1 *request to the county assessor that any personal information about*
2 *the person which is contained in the records of the county assessor*
3 *be kept confidential.*

4 2. *Except as otherwise provided in section 8 or 10 of this act,*
5 *if a county assessor receives a request for confidentiality pursuant*
6 *to subsection 1, he shall keep such information confidential and*
7 *shall not:*

8 (a) *Disclose the confidential information to anyone, unless*
9 *disclosure is specifically authorized in writing by that person; or*

10 (b) *Post the confidential information on the Internet or its*
11 *successor, if any, or make the information available to others in*
12 *any other way.*

13 **Sec. 6.** *The following persons may request that personal*
14 *information contained in the records of a county assessor be kept*
15 *confidential:*

16 1. *A member of the Legislature.*

17 2. *The Attorney General.*

18 3. *Any justice or judge in this State.*

19 4. *An employee of a court in this State.*

20 5. *An attorney or investigator employed by this State.*

21 6. *A district attorney or deputy district attorney.*

22 7. *A county public defender or deputy public defender.*

23 8. *A city attorney, deputy city attorney or attorney who works*
24 *for a political subdivision of this State and submits verification to*
25 *the assessor that his work for the political subdivision routinely*
26 *places him in contact with persons who are being investigated for,*
27 *charged with or have been convicted of a criminal act.*

28 9. *An investigator employed by a district attorney or public*
29 *defender.*

30 10. *An elected or appointed member of the governing body of*
31 *a political subdivision of this State.*

32 11. *An employee or retired employee of a political subdivision*
33 *of this State whose primary function is the enforcement of*
34 *municipal ordinances.*

35 12. *A peace officer or retired peace officer.*

36 13. *The surviving spouse or minor child of a peace officer*
37 *who was killed in the line of duty.*

38 14. *An employee of a law enforcement agency who is*
39 *routinely placed in contact with persons who are being*
40 *investigated for, charged with or have been convicted of a criminal*
41 *act.*

42 15. *A social worker or investigator who is employed by an*
43 *agency which provides child welfare services and who investigates*
44 *the abuse of children.*



1 16. *A psychiatric social worker employed by this State or a*
2 *political subdivision of this State.*

3 17. *An employee of:*

4 (a) *The Department of Corrections;*

5 (b) *The Division of Parole and Probation of the Department of*
6 *Public Safety;*

7 (c) *The Division of Child and Family Services of the*
8 *Department of Human Resources;*

9 (d) *The State Board of Parole Commissioners;*

10 (e) *The Board of State Prison Commissioners;*

11 (f) *A county department of family, youth and juvenile services;*
12 *or*

13 (g) *A facility for the detention of juveniles.*

14 18. *An employee of the Department of Motor Vehicles whose*
15 *primary duty is the administration of examinations for a driver's*
16 *license pursuant to NRS 483.330.*

17 19. *A prosecutor or investigator employed by the Federal*
18 *Government who resides in this State.*

19 20. *A person employed as a ranger for the National Park*
20 *Service who resides in this State.*

21 **Sec. 7. 1.** *Except as otherwise provided in subsection 2,*
22 *confidential information must not be disclosed until 3 years after*
23 *the person who requested confidentiality no longer occupies a*
24 *position listed in section 6 of this act.*

25 2. *If a person listed in subsection 12, 13 or 14 of section 6 of*
26 *this act requests confidentiality, the confidential information*
27 *of that person may only be disclosed as provided in section 8 or 10*
28 *of this act.*

29 **Sec. 8. 1.** *A county assessor may provide confidential*
30 *information for use:*

31 (a) *By any governmental entity, including, without limitation,*
32 *any court or law enforcement agency, in carrying out its*
33 *functions, or any person acting on behalf of a federal, state or*
34 *local governmental agency in carrying out its functions.*

35 (b) *In connection with any civil, criminal, administrative or*
36 *arbitration proceeding before any federal or state court, regulatory*
37 *body, board, commission or agency, including, without limitation,*
38 *use for service of process, investigation in anticipation of*
39 *litigation, and execution or enforcement of judgments and orders*
40 *or pursuant to an order of a federal or state court.*

41 (c) *By a private investigator, private patrolman or security*
42 *consultant who is licensed pursuant to chapter 648 of NRS, for*
43 *any use authorized pursuant to this section.*

44 (d) *In connection with an investigation conducted pursuant to*
45 *NRS 253.0415, 253.044 or 253.220.*



1 (e) *In activities relating to research and the production of*
2 *statistical reports, if the address or information will not be*
3 *published or otherwise disclosed or used to contact any person.*

4 (f) *In the bulk distribution of surveys, marketing material or*
5 *solicitations, if the assessor has adopted policies and procedures to*
6 *ensure that the information will be used or sold only for use in the*
7 *bulk distribution of surveys, marketing material or solicitations.*

8 2. *A person who obtains information pursuant to this section*
9 *and sells or discloses that information shall keep and maintain for*
10 *at least 5 years a record of:*

11 (a) *Each person to whom the information is sold or disclosed;*
12 *and*

13 (b) *The purpose for which that person will use the*
14 *information.*

15 **Sec. 9.** *Except for a request from a governmental entity*
16 *pursuant to paragraph (a) of subsection 1 of section 8 of this act*
17 *or in response to an order of a federal or state court pursuant to*
18 *paragraph (b) of subsection 1 of section 8 of this act, a county*
19 *assessor may deny a request for confidential information if the*
20 *assessor reasonably believes that the information may be used in*
21 *an unauthorized manner.*

22 **Sec. 10.** *A county assessor may establish a program whereby*
23 *a person may request a complete list of the assessor's roll,*
24 *including, without limitation, any confidential information, by*
25 *establishing an account with the office of the assessor to facilitate*
26 *his ability to request such information electronically or by written*
27 *request if he has submitted to the assessor proof that he is eligible*
28 *to request such information pursuant to section 8 of this act and a*
29 *signed and notarized affidavit acknowledging:*

30 1. *That he has read and fully understands the current laws*
31 *and regulations regarding the manner in which confidential*
32 *information from the assessor's files and records may be obtained*
33 *and the authorized use of such information.*

34 2. *That he understands that any sale or disclosure of such*
35 *information must be in accordance with the provisions of sections*
36 *2 to 10, inclusive, of this act.*

37 3. *That he understands that the assessor will maintain a*
38 *record of any confidential information he requests.*

39 4. *That he understands the penalties for violating the*
40 *provisions of sections 2 to 10, inclusive, of this act.*

41 5. *That he understands that a violation of any of the*
42 *provisions of sections 2 to 10, inclusive, of this act may result in a*
43 *revocation of his privilege to request documents pursuant to this*
44 *section.*



1 **Sec. 11.** *A county assessor who establishes a program*
2 *pursuant to section 10 of this act may:*

3 1. *Charge a reasonable fee to cover the costs of administering*
4 *the program.*

5 2. *Revoke the privilege to request documents pursuant to*
6 *section 10 of this act for a violation of the provisions of sections 2*
7 *to 10, inclusive, of this act.*

8 **Sec. 12.** *If a professional or occupational board determines*
9 *that its licensees regularly participate in a program established*
10 *pursuant to section 10 of this act, the board shall adopt procedures*
11 *to ensure that the confidential information obtained by its*
12 *licensees pursuant to section 10 of this act is used for the purposes*
13 *for which it was obtained.*

14 **Sec. 13.** 1. *A person shall not:*

15 (a) *Make a false representation to obtain any information*
16 *pursuant to sections 2 to 10, inclusive, of this act; or*

17 (b) *Knowingly obtain or disclose information pursuant to*
18 *sections 2 to 10, inclusive, of this act for any use not authorized*
19 *pursuant to sections 2 to 10, inclusive, of this act.*

20 2. *Unless a greater penalty is provided pursuant to section 14*
21 *of this act, a person who violates the provisions of this section is*
22 *guilty of a misdemeanor.*

23 **Sec. 14.** *If a person discloses confidential information about*
24 *a person listed in subsection 12, 13 or 14 of section 6 of this act in*
25 *violation of sections 2 to 10, inclusive, of this act, and the person*
26 *who makes the disclosure knows or reasonably should know that*
27 *such disclosure will create a substantial risk of bodily harm to the*
28 *person about whom the information pertains, the person who*
29 *makes the disclosure is guilty of:*

30 1. *If no bodily harm results, a misdemeanor.*

31 2. *If bodily harm results which is not substantial bodily harm,*
32 *a gross misdemeanor.*

33 3. *If substantial bodily harm results, a category D felony and*
34 *shall be punished as provided in NRS 193.130.*

35 **Sec. 15.** *In addition to any penalty imposed pursuant to*
36 *section 13 or 14 of this act, the court may order a person who*
37 *commits an act described in those sections to pay a civil penalty in*
38 *an amount not to exceed \$2,500 for each act.*

39 **Sec. 16.** Chapter 293 of NRS is hereby amended by adding
40 thereto a new section to read as follows:

41 1. *If a person, in violation of subsection 2 of NRS 293.558,*
42 *discloses from a list of registered voters the address or telephone*
43 *number of a peace officer or employee of a law enforcement*
44 *agency, the spouse or minor child of such a person, or the*
45 *surviving spouse or minor child of a peace officer who was killed*



1 *in the line of duty, and the person who makes the disclosure*
2 *knows or reasonably should know that such disclosure will create*
3 *a substantial risk of bodily harm to the person about whom the*
4 *information pertains, the person who makes the disclosure is*
5 *guilty of:*

6 (a) *If no bodily harm results, a misdemeanor.*

7 (b) *If bodily harm results which is not substantial bodily harm,*
8 *a gross misdemeanor.*

9 (c) *If substantial bodily harm results, a category D felony and*
10 *shall be punished as provided in NRS 193.130.*

11 2. *In addition to any penalty imposed pursuant to subsection*
12 *1, the court may order a person who commits an act described in*
13 *subsection 1 to pay a civil penalty in an amount not to exceed*
14 *\$2,500 for each act.*

15 **Sec. 17.** Chapter 481 of NRS is hereby amended by adding
16 thereto a new section to read as follows:

17 1. *If a person discloses personal information about a person*
18 *listed in subsection 12, 13 or 14 of section 6 of this act in violation*
19 *of subsection 5 of NRS 481.063, and the person who makes the*
20 *disclosure knows or reasonably should know that such disclosure*
21 *will create a substantial risk of bodily harm to the person about*
22 *whom the information pertains, the person who makes the*
23 *disclosure is guilty of:*

24 (a) *If no bodily harm results, a misdemeanor.*

25 (b) *If bodily harm results which is not substantial bodily harm,*
26 *a gross misdemeanor.*

27 (c) *If substantial bodily harm results, a category D felony and*
28 *shall be punished as provided in NRS 193.130.*

29 2. *In addition to any penalty imposed pursuant to subsection*
30 *1, the court may order a person who commits an act described in*
31 *subsection 1 to pay a civil penalty in an amount not to exceed*
32 *\$2,500 for each act.*

33 **Sec. 18.** NRS 481.063 is hereby amended to read as follows:

34 481.063 1. The Director may charge and collect reasonable
35 fees for official publications of the Department and from persons
36 making use of files and records of the Department or its various
37 divisions for a private purpose. All money so collected must be
38 deposited in the State Treasury for credit to the Motor Vehicle Fund.

39 2. Except as otherwise provided in subsection 5, the Director
40 may release personal information, except a photograph, from a file
41 or record relating to the driver's license, identification card, or title
42 or registration of a vehicle of a person if the requester submits a
43 written release from the person who holds a lien on the vehicle, or
44 an agent of that person, or the person about whom the information is
45 requested which is dated not more than 90 days before the date of



1 the request. The written release must be in a form required by the
2 Director.

3 3. Except as otherwise provided in subsection 2, the Director
4 shall not release to any person who is not a representative of the
5 Welfare Division of the Department of Human Resources or an
6 officer, employee or agent of a law enforcement agency, an agent of
7 the public defender's office or an agency of a local government
8 which collects fines imposed for parking violations, who is not
9 conducting an investigation pursuant to NRS 253.0415, 253.044 or
10 253.220, who is not authorized to transact insurance pursuant to
11 chapter 680A of NRS or who is not licensed as a private investigator
12 pursuant to chapter 648 of NRS and conducting an investigation of
13 an insurance claim:

14 (a) A list which includes license plate numbers combined with
15 any other information in the records or files of the Department;

16 (b) The social security number of any person, if it is requested to
17 facilitate the solicitation of that person to purchase a product or
18 service; or

19 (c) The name, address, telephone number or any other
20 personally identifiable information if the information is requested by
21 the presentation of a license plate number.

22 ➤ When such personally identifiable information is requested of a
23 law enforcement agency by the presentation of a license plate
24 number, the law enforcement agency shall conduct an investigation
25 regarding the person about whom information is being requested or,
26 as soon as practicable, provide the requester with the requested
27 information if the requester officially reports that the motor vehicle
28 bearing that license plate was used in a violation of NRS 205.240,
29 205.345, 205.380 or 205.445.

30 4. Except as otherwise provided in subsections 2 and 5, the
31 Director shall not release any personal information from a file or
32 record relating to a driver's license, identification card, or title or
33 registration of a vehicle.

34 5. Except as otherwise provided in paragraph (a) and
35 subsection 6, if a person or governmental entity provides a
36 description of the information requested and its proposed use and
37 signs an affidavit to that effect, the Director may release any
38 personal information, except a photograph, from a file or record
39 relating to a driver's license, identification card, or title or
40 registration of a vehicle for use:

41 (a) By any governmental entity, including, but not limited to,
42 any court or law enforcement agency, in carrying out its functions,
43 or any person acting on behalf of a federal, state or local
44 governmental agency in carrying out its functions. The personal
45 information may include a photograph from a file or record relating



1 to a driver's license, identification card, or title or registration of a
2 vehicle.

3 (b) In connection with any civil, criminal, administrative or
4 arbitration proceeding before any federal or state court, regulatory
5 body, board, commission or agency, including, but not limited to,
6 use for service of process, investigation in anticipation of litigation,
7 and execution or enforcement of judgments and orders, or pursuant
8 to an order of a federal or state court.

9 (c) In connection with matters relating to:
10 (1) The safety of drivers of motor vehicles;
11 (2) Safety and thefts of motor vehicles;
12 (3) Emissions from motor vehicles;
13 (4) Alterations of products related to motor vehicles;
14 (5) An advisory notice relating to a motor vehicle or the
15 recall of a motor vehicle;
16 (6) Monitoring the performance of motor vehicles;
17 (7) Parts or accessories of motor vehicles;
18 (8) Dealers of motor vehicles; or
19 (9) Removal of nonowner records from the original records
20 of motor vehicle manufacturers.

21 (d) By any insurer, self-insurer or organization that provides
22 assistance or support to an insurer or self-insurer or its agents,
23 employees or contractors, in connection with activities relating to
24 the rating, underwriting or investigation of claims or the prevention
25 of fraud.

26 (e) In providing notice to the owners of vehicles that have been
27 towed, repossessed or impounded.

28 (f) By an employer or its agent or insurer to obtain or verify
29 information relating to a holder of a commercial driver's license
30 who is employed by or has applied for employment with the
31 employer.

32 (g) By a private investigator, private patrolman or security
33 consultant who is licensed pursuant to chapter 648 of NRS, for any
34 use permitted pursuant to this section.

35 (h) ~~By~~ *Except as otherwise provided in this subsection, by* a
36 reporter or editorial employee who is employed by or affiliated with
37 any newspaper, press association or commercially operated,
38 federally licensed radio or television station for a journalistic
39 purpose. The Department may not make any inquiries regarding the
40 use of or reason for the information requested other than whether the
41 information will be used for a journalistic purpose. *The Director*
42 *may not release any personal information concerning a person*
43 *listed in section 6 of this act unless the disclosure is specifically*
44 *authorized in writing by that person.*



1 (i) In connection with an investigation conducted pursuant to
2 NRS 253.0415, 253.044 or 253.220.

3 (j) In activities relating to research and the production of
4 statistical reports, if the personal information will not be published
5 or otherwise redisclosed, or used to contact any person.

6 (k) In the bulk distribution of surveys, marketing material or
7 solicitations, if the Director has adopted policies and procedures to
8 ensure that:

9 (1) The information will be used or sold only for use in the
10 bulk distribution of surveys, marketing material or solicitations;

11 (2) Each person about whom the information is requested has
12 clearly been provided with an opportunity to authorize such a use;
13 and

14 (3) If the person about whom the information is requested
15 does not authorize such a use, the bulk distribution will not be
16 directed toward that person.

17 6. Except as otherwise provided in paragraph (j) of subsection
18 5, a person who requests and receives personal information may sell
19 or disclose that information only for a use permitted pursuant to
20 subsection 5. Such a person shall keep and maintain for 5 years a
21 record of:

22 (a) Each person to whom the information is provided; and

23 (b) The purpose for which that person will use the information.

24 ➔ The record must be made available for examination by the
25 Department at all reasonable times upon request.

26 7. Except as otherwise provided in subsection 2, the Director
27 may deny any use of the files and records if he reasonably believes
28 that the information taken may be used for an unwarranted invasion
29 of a particular person's privacy.

30 8. Except as otherwise provided in NRS 485.316, the Director
31 shall not allow any person to make use of information retrieved
32 from the database created pursuant to NRS 485.313 for a private
33 purpose and shall not in any other way release any information
34 retrieved from that database.

35 9. The Director shall adopt such regulations as he deems
36 necessary to carry out the purposes of this section. In addition, the
37 Director shall, by regulation, establish a procedure whereby a person
38 who is requesting personal information may establish an account
39 with the Department to facilitate his ability to request information
40 electronically or by written request if he has submitted to the
41 Department proof of his employment or licensure, as applicable, and
42 a signed and notarized affidavit acknowledging:

43 (a) That he has read and fully understands the current laws and
44 regulations regarding the manner in which information from the



1 Department's files and records may be obtained and the limited uses
2 which are permitted;

3 (b) That he understands that any sale or disclosure of
4 information so obtained must be in accordance with the provisions
5 of this section;

6 (c) That he understands that a record will be maintained by the
7 Department of any information he requests; and

8 (d) That he understands that a violation of the provisions of this
9 section is a criminal offense.

10 10. ~~It is unlawful for any person to:~~

11 ~~—(a) Make~~ *Unless a greater penalty is provided pursuant to*
12 *section 17 of this act, a person who:*

13 (a) *Makes* a false representation to obtain any information from
14 the files or records of the Department ~~[-]~~; *or*

15 (b) Knowingly ~~obtain or disclose~~ *obtains or discloses* any
16 information from the files or records of the Department for any use
17 not permitted by the provisions of this chapter ~~[-]~~,

18 *↳ is guilty of a misdemeanor.*

19 11. As used in this section, "personal information" means
20 information that reveals the identity of a person, including, without
21 limitation, his photograph, social security number, driver's license
22 number, identification card number, name, address, telephone
23 number or information regarding a medical condition or disability.
24 The term does not include the zip code of a person when separate
25 from his full address, information regarding vehicular accidents or
26 driving violations in which he has been involved or other
27 information otherwise affecting his status as a driver.

28 **Sec. 19.** This act becomes effective on July 1, 2005.



