

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARK COUNTY OFFICE OF THE
CORONER/MEDICAL EXAMINER,

Appellant,

vs.

LAS VEGAS REVIEW-JOURNAL,

Respondent.

CLARK COUNTY OFFICE OF THE
CORONER/MEDICAL EXAMINER,

Appellant,

vs.

LAS VEGAS REVIEW-JOURNAL,

Respondent.

Electronically Filed
Sep 23 2019 03:31 p.m.
Case Nos. 74604-75095
Elizabeth A. Brown
Clerk of Supreme Court

Appeal from the Eighth Judicial
District Court, the Honorable
Jim Crockett Presiding

APPELLANT'S NOTICE OF
SUPPLEMENTAL
AUTHORITIES
(CASE NO. 75095)

Marquis Aurbach Coffing
Micah S. Echols, Esq.
Nevada Bar No. 8437
Jackie V. Nichols, Esq.
Nevada Bar No. 14246
10001 Park Run Drive
Las Vegas, Nevada 89145
Telephone: (702) 382-0711
Facsimile: (702) 382-5816
mechols@maclaw.com
jnichols@maclaw.com

Steven B. Wolfson
District Attorney
Laura C. Rehfeldt
Deputy District Attorney
Nevada Bar No. 5101
500 South Grand Central Pkwy, 5th Flr.
P.O. Box 552215
Las Vegas, Nevada 89155-2215
Telephone: (702) 455-4761
Facsimile: (702) 382-5178
laura.rehfeldt@clarkcountynvda.com

Attorneys for Appellant, Clark County Office of the Coroner/Medical Examiner

MAC:15090-001 3851270_1

Appellant, Clark County Office of the Coroner/Medical Examiner (“Coroner”), by and through its counsel, Marquis Aurbach Coffing, hereby supplements the Coroner’s opening and reply briefs in Case No.75095 pursuant to NRAP 31(e). This supplemental authority is based upon the Legislature’s recent changes, and lack thereof, to the Nevada Public Records Act (the “NPRA”). For the convenience of the Court and all parties to this appeal, the Coroner has attached a copy of Senate Bill (“SB”) 287 (2019) as initially proposed as **Exhibit 1** and SB 287 as enrolled as **Exhibit 2**.¹

Specifically, the Coroner asks this Court to take note of page 12, Section 10 of the initial proposed bill of SB 287. In particular, the Coroner directs this Court to the proposed changes related to NRS 239.012 that attempt to clarify the statute to preclude the immunity provision from applying to costs and reasonable attorney’s fees sought pursuant to NRS 239.011. This proposed language states as follows:

Such damages do not include any costs and reasonable attorney’s fees or other monetary amount awarded to the requester pursuant to NRS 239.011 or section 1 of this act.

For the purposes of subsection 1, the public officer or employee or his or her employer, as applicable, has the burden of proving by a

¹ See *McKay v. Board of Cty. Comm’rs*, 103 Nev. 492, 492, n.2, 746 P.2d 124, 125, n.2 (1987) (failure to adopt a proposed amendment is evidence of legislative intent to the contrary).

preponderance of the evidence that the public officer or employee acted in good faith in refusing to disclose information.

Exhibit 1. Ultimately, however, the Legislature rejected this amendment and the language of NRS 239.012 remained unchanged. *See Exhibit 2.*

The Legislature's refusal to adopt the initially proposed language amending NRS 239.012 corresponds to the central issue subject to the Coroner's appeal and the argument on pages 18-24 of the opening brief and pages 28-33 of the reply brief. Specifically, the Coroner requested in this briefing that the Court look to the legislative history of NRS 239.012 to conclude that a government entity may be immune from a requester's attorney fees and costs under NRS 239.011.

Therefore, the Coroner respectfully requests that this Court take into account the referenced portions of SB 287, as initially proposed and enrolled, when considering the Coroner's opening and reply briefs in the instant appeal.

Dated this 23rd day of September, 2019.

MARQUIS AURBACH COFFING

By /s/ Jackie V. Nichols
Micah S. Echols, Esq.
Nevada State Bar No. 8437
Jackie V. Nichols, Esq.
Nevada State Bar No. 14246
10001 Park Run Drive
Las Vegas, Nevada 89145
*Attorneys for Appellant, Clark County
Office of the Coroner/Medical Examiner*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **APPELLANT'S NOTICE OF SUPPLEMENTAL AUTHORITIES (CASE NO. 75095)** was filed electronically with the Nevada Supreme Court on the 23rd day of September, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Margaret A. McLetchie, Esq.
Alina M. Shell, Esq.

/s/ Leah Dell

Leah Dell, an employee of
Marquis Aurbach Coffing

Exhibit 1

SENATE BILL NO. 287--SENATORS PARKS, HANSEN,
SPEARMAN; DENIS AND WOODHOUSE

MARCH 15, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing public records.
(BDR 19-648)

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

EXPLANATION – Matter in *bolded italics* is new; matter between brackets {omitted material} is material to be omitted.

AN ACT relating to public records; clarifying the records of a governmental entity that must be made available to the public to inspect, copy or receive a copy thereof; revising provisions relating to the manner of providing copies of public records; revising provisions governing the actions taken by governmental entities in response to requests for public records; revising provisions relating to the relief provided for a requester of a public record who prevails in a legal proceeding; revising provisions governing immunity from liability for public officers and employees who disclose or refuse to disclose certain information; revising provisions governing the fees that governmental entities are authorized to charge for a copy of a public record; providing civil penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides that all public books and public records of a state or local
2 governmental entity, unless otherwise declared by law to be confidential, are
3 required to be open at all times during office hours for the public to inspect, copy or
4 receive a copy thereof. Existing law also authorizes a person to request a copy of a
5 public record in any medium in which the public record is readily available. (NRS
6 239.010) The purpose of the existing law governing public records, as stated in the
7 legislative declaration for that law, is, in part, to foster democratic principles by
8 providing members of the public with access to inspect and copy public books and
9 records to the extent permitted by law. (NRS 239.001) **Section 2** of this bill
10 provides that the legislative intent is for such access to be provided promptly.
11 **Section 3** of this bill defines "public record" to mean any of several types of



records and information prepared, created, used, owned, retained or received in connection with the transaction of official business or the provision of a public service. **Section 12** of this bill provides for making conforming changes relating to this definition. **Sections 2 and 4** of this bill make changes to conform with existing law which provides that, in addition to the right to inspect and copy a public record, members of the public have the right to receive a copy of a public record upon request.

With certain exceptions, existing law prohibits a governmental entity from charging a fee for providing a copy of a public record that exceeds the actual cost to the governmental entity to provide the copy. (NRS 239.052) **Section 3** clarifies that the actual cost to a governmental entity: (1) includes such direct costs as the cost of ink, toner, paper, media and postage; and (2) does not include overhead and labor costs that a governmental entity incurs regardless of the request. **Section 13** of this bill eliminates the authority of a governmental entity to charge an additional fee for providing a copy of a public record when extraordinary use of personnel or resources is required. (NRS 239.055)

Existing law generally places certain requirements on a governmental entity that has legal custody or control of a public record. (NRS 239.010, 239.0107, 239.011, 239.0113, 239.0115) **Sections 5-9** of this bill change the applicable type of custody or control of a public record from "legal custody or control" to "possession, custody or control." **Section 5** of this bill specifically authorizes the electronic redaction of public records. **Section 5** also requires a governmental entity to provide a copy of a public record in an electronic format by means of an electronic medium unless the public record was requested in a different medium. **Section 5** further requires that a public record be provided in the electronic format in which it was created or prepared, if requested.

Under existing law, if a person requests to inspect or copy a public record or receive a copy of a public record which the governmental entity is unable to make available by the end of the fifth business day after the request was received, the governmental entity is required to provide written notice of that fact to the person who made the request and the date and time after which the public record or the copy of the public record will be available. (NRS 239.0107) **Section 6** of this bill clarifies that the date and time provided to the requester must reflect the earliest date and time after which the governmental entity reasonably believes the public record will be available. If the public record is not made available by this date and time, **section 6** requires the governmental entity to provide to the requester, in writing, an explanation of the reason the public record is not available and a date and time after which the governmental entity reasonably believes the public record will be available. **Section 6** also requires a governmental entity that is unable to provide access to a public record within the prescribed time period to make a reasonable effort to assist the requester to focus the request in such a manner as to maximize the likelihood the requester will be able to inspect, copy or receive a copy of the public record as expeditiously as possible. **Section 6** additionally requires a person who has possession, custody or control of a public record of a governmental entity to provide to a requester certain contact information regarding the person who is responsible for making the decision on behalf of the governmental entity concerning the action the governmental entity will take with respect to the request for the public record or any other decision in connection with the request.

If a request for inspection, copying or copies of a public record is denied, existing law authorizes a requester to apply to a district court for an order permitting the requester to inspect or copy the record or requiring the person who has legal custody or control of the public record to provide a copy to the requester. Existing law provides that if the requester prevails in such a proceeding, the requester is entitled to recover his or her costs and reasonable attorney's fees in the



67 proceeding from the governmental entity whose officer has custody of the record.
68 (NRS 239.011) **Section 7** of this bill authorizes a requester of a public record to
69 apply to a district court for a similar order if a request for inspection, copying or
70 copies of a public record is unreasonably delayed or if a person who requests a
71 copy of a public record believes that the fee charged by the governmental entity for
72 providing the copy of the public record is excessive or improper. **Section 7**
73 additionally provides that if the requester prevails in a proceeding involving an
74 unreasonable delay in the provision of a public record or the imposition of an
75 excessive or improper fee for the public record, the requester is entitled to recover
76 from the governmental entity his or her costs and reasonable attorney's fees and
77 \$100 per day for each day that the requester was denied the right to inspect, copy or
78 receive a copy of the public record. **Section 7** also authorizes the recovery of this
79 daily monetary penalty for the denial of a request for a public record. **Section 7**
80 further provides that if the governmental entity appeals the decision of the district
81 court and the decision is affirmed in whole or in part, the requester is also entitled
82 to recover from the governmental entity his or her costs and reasonable attorney's
83 fees for the appeal and \$100 per day for each day that the requester was denied the
84 right to inspect, copy or receive a copy of the public record. **Section 1** of this bill
85 provides that, in addition to any such costs, attorney's fees or other monetary
86 awards, the requester of a public record is entitled to recover a civil penalty and to
87 any additional relief deemed proper by the court if a governmental entity or the
88 person who is responsible for making decisions on behalf of the governmental
89 entity relating to the public record request fails to comply with the existing law
90 governing public records.
91 Existing law confers immunity from liability for damages upon public officers
92 and employees who act in good faith in disclosing or refusing to disclose
93 information. (NRS 239.012) **Section 10** of this bill provides that the burden of
94 proof that a public officer or employee acted in good faith in refusing to disclose
95 information is on the public officer or employee or his or her employer. **Section 10**
96 also clarifies that the immunity from liability for damages for public officers and
97 employees does not include immunity from liability for paying the costs and
98 reasonable attorney's fees and other monetary relief awarded to a prevailing
99 requester. **Section 11** of this bill provides that the provisions of the bill apply to
100 actions that are currently pending on October 1, 2019, which is the effective date of
101 this bill, as well as to actions filed on and after October 1, 2019.

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. In addition to any relief awarded pursuant to NRS*
4 *239.011, if a court determines that a governmental entity or the*
5 *person identified pursuant to subsection 3 of NRS 239.0107 as*
6 *responsible for making the decision on behalf of the governmental*
7 *entity concerning the request to inspect, copy or receive a copy of a*
8 *public record failed to comply with the provisions of this chapter,*
9 *the requester of the public record is entitled to:*
10 *(a) Recover from the governmental entity or the person*
11 *identified pursuant to subsection 3 of NRS 239.0107, or both, a*



1 *civil penalty of not less than \$1,000 or more than \$250,000 per*
2 *offense.*

3 *(b) Any such additional relief as the court deems proper to*
4 *punish and deter violations of the provisions of this chapter.*

5 2. *The rights and remedies recognized by this section are in*
6 *addition to any other rights or remedies that may exist in law or in*
7 *equity.*

8 **Sec. 2.** NRS 239.001 is hereby amended to read as follows:

9 239.001 The Legislature hereby finds and declares that:

10 1. The purpose of this chapter is to foster democratic principles
11 by providing members of the public with *prompt* access to inspect ,
12 ~~and~~ copy or receive a copy of, including, without limitation, in an
13 electronic format by means of an electronic medium, public ~~books~~
14 ~~and~~ records to the extent permitted by law;

15 2. The provisions of this chapter must be construed liberally to
16 carry out this important purpose;

17 3. Any exemption, exception or balancing of interests which
18 limits or restricts access to public ~~books and~~ records by members
19 of the public must be construed narrowly;

20 4. The use of private entities in the provision of public services
21 must not deprive members of the public access to inspect , ~~and~~
22 copy ~~books and~~ or receive a copy of records relating to the
23 provision of those services; and

24 5. If a public ~~book or~~ record is declared by law to be open to
25 the public, such a declaration does not imply, and must not be
26 construed to mean, that a public ~~book or~~ record is confidential if it
27 is not declared by law to be open to the public and is not otherwise
28 declared by law to be confidential.

29 **Sec. 3.** NRS 239.005 is hereby amended to read as follows:

30 239.005 As used in this chapter, unless the context otherwise
31 requires:

32 1. "Actual cost" means the direct cost ~~related to the~~
33 ~~reproduction~~ incurred by a governmental entity in the provision of
34 a public record ~~+~~ , including, without limitation, the cost of ink,
35 toner, paper, media and postage. 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 ~~+~~ , including,
38 without limitation, any overhead costs of the governmental entity
39 and any labor costs incurred by a governmental entity in the
40 provision of a public record.

41 2. "Agency of the Executive Department" means an agency,
42 board, commission, bureau, council, department, division, authority
43 or other unit of the Executive Department of the State Government.
44 The term does not include the Nevada System of Higher Education.



1 3. "Committee" means the Committee to Approve Schedules
2 for the Retention and Disposition of Official State Records.

3 4. "Division" means the Division of State Library, Archives
4 and Public Records of the Department of Administration.

5 5. "Governmental entity" means:

6 (a) An elected or appointed officer of this State or of a political
7 subdivision of this State;

8 (b) An institution, board, commission, bureau, council,
9 department, division, authority or other unit of government of this
10 State, including, without limitation, an agency of the Executive
11 Department, or of a political subdivision of this State;

12 (c) A university foundation, as defined in NRS 396.405;

13 (d) An educational foundation, as defined in NRS 388.750, to
14 the extent that the foundation is dedicated to the assistance of public
15 schools; or

16 (e) A library foundation, as defined in NRS 379.0056, to the
17 extent that the foundation is dedicated to the assistance of a public
18 library.

19 6. "Official state record" includes, without limitation:

20 (a) Papers, unpublished books, maps and photographs;

21 (b) Information stored on magnetic tape or computer, laser or
22 optical disc;

23 (c) Materials that are capable of being read by a machine,
24 including, without limitation, microforms and audio and visual
25 materials; and

26 (d) Materials that are made or received by a state agency and
27 preserved by that agency or its successor as evidence of the
28 organization, operation, policy or any other activity of that agency
29 or because of the information contained in the material.

30 7. "Privatization contract" means a contract executed by or on
31 behalf of a governmental entity which authorizes a private entity to
32 provide public services that are:

33 (a) Substantially similar to the services provided by the public
34 employees of the governmental entity; and

35 (b) In lieu of the services otherwise authorized or required to be
36 provided by the governmental entity.

37 8. *"Public record" means any record, document, paper, letter,*
38 *map, notes, calendar, spreadsheet, database, book, tape,*
39 *photograph, film, sound recording, video recording, data*
40 *processing software, computer and other electronic data,*
41 *metadata, electronic mail or any other material or means of*
42 *recording information, regardless of the physical form,*
43 *characteristics or means of transmission, which is prepared,*
44 *created, used, owned, retained or received in connection with the*
45 *transaction of official business or the provision of a public service.*



1 **Sec. 4.** NRS 239.008 is hereby amended to read as follows:

2 239.008 1. The head of each agency of the Executive
3 Department shall designate one or more employees of the agency to
4 act as records official for the agency.

5 2. A records official designated pursuant to subsection 1 shall
6 carry out the duties imposed pursuant to this chapter on the agency
7 of the Executive Department that designated him or her with respect
8 to a request to inspect, ~~to~~ copy *or receive a copy of* a public ~~book~~
9 ~~or~~ record of the agency.

10 3. The State Library, Archives and Public Records
11 Administrator, pursuant to NRS 378.255 and in cooperation with the
12 Attorney General, shall prescribe:

13 (a) The form for a request by a person to inspect, ~~to~~ copy *or*
14 *receive a copy of* a public ~~book or~~ record of an agency of the
15 Executive Department pursuant to NRS 239.0107;

16 (b) The form for the written notice required to be provided by an
17 agency of the Executive Department pursuant to paragraph (b), (c)
18 or (d) of subsection 1 of NRS 239.0107; and

19 (c) By regulation the procedures with which a records official
20 must comply in carrying out his or her duties.

21 4. Each agency of the Executive Department shall make
22 available on any website maintained by the agency on the Internet or
23 its successor the forms and procedures prescribed by the State
24 Library, Archives and Public Records Administrator and the
25 Attorney General pursuant to subsection 3.

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

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



1 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210,
2 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030,
3 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560,
4 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910,
5 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685,
6 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438,
7 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503,
8 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510,
9 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379,
10 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,
11 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247,
12 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180,
13 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495,
14 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,
15 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035,
16 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315,
17 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698,
18 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535,
19 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484,
20 412.153, 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,
23 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170,
24 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735,
25 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140,
26 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
27 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
28 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940,
29 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363,
30 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452,
31 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964,
32 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710,
33 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341,
34 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327,
35 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047,
36 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368,
37 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055,
38 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087,
39 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730,
40 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190,
41 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170,
42 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870,
43 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092,
44 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375,
45 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033,



1 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115,
2 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450,
3 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122,
4 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270,
5 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077,
6 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010,
7 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190,
8 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420,
9 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320,
10 704B.325, 706.1725, 706A.230, 710.159, 711.600, sections 35, 38
11 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of
12 chapter 391, Statutes of Nevada 2013 and unless otherwise declared
13 by law to be confidential, all public ~~books and public~~ records of a
14 governmental entity must be open at all times during office hours to
15 inspection by any person, and may be fully copied or an abstract or
16 memorandum may be prepared from those public ~~books and public~~
17 records. Any such copies, abstracts or memoranda may be used to
18 supply the general public with copies, abstracts or memoranda of the
19 records or may be used in any other way to the advantage of the
20 governmental entity or of the general public. This section does not
21 supersede or in any manner affect the federal laws governing
22 copyrights or enlarge, diminish or affect in any other manner the
23 rights of a person in any written ~~book or~~ record which is
24 copyrighted pursuant to federal law.

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

27 3. A governmental entity that has ~~legal~~ *possession*, custody
28 or control of a public ~~book or~~ record shall not deny a request made
29 pursuant to subsection 1 to inspect or copy or receive a copy of a
30 public ~~book or~~ record on the basis that the requested public ~~book~~
31 ~~or~~ record contains information that is confidential if the
32 governmental entity can redact, delete, conceal or separate ,
33 *including, without limitation, electronically*, the confidential
34 information from the information included in the public ~~book or~~
35 record that is not otherwise confidential.

36 4. A ~~person may request~~ *governmental entity shall provide a*
37 *copy of a public record in any an electronic format by means of*
38 *an electronic medium in which the public record is readily*
39 *available.* *unless the public record was requested in a different*
40 *medium. If requested, a copy of a public record must be provided*
41 *in the electronic format in which the public record was created or*
42 *prepared.*



1 5. An officer, employee or agent of a governmental entity who
2 has ~~legal~~ *possession*, custody or control of a public record:

3 (a) Shall not refuse to provide a copy of that public record in ~~the~~
4 ~~readily available~~ *the medium that is requested* because the officer,
5 employee or agent has already prepared or would prefer to provide
6 the copy in a different medium.

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

11 **Sec. 6.** NRS 239.0107 is hereby amended to read as follows:

12 239.0107 1. Not later than the end of the fifth business day
13 after the date on which the person who has ~~legal~~ *possession*,
14 custody or control of a public ~~book or~~ record of a governmental
15 entity receives a written or oral request from a person to inspect,
16 copy or receive a copy of the public ~~book or~~ record, a
17 governmental entity shall do one of the following, as applicable:

18 (a) Except as otherwise provided in subsection 2, allow the
19 person to inspect or copy the public ~~book or~~ record or, if the
20 request is for the person to receive a copy of the public ~~book or~~
21 record, provide such a copy to the person.

22 (b) If the governmental entity does not have ~~legal~~ *possession*,
23 custody or control of the public ~~book or~~ record, provide to the
24 person, in writing:

25 (1) Notice of ~~that~~ *the fact that it does not have*
26 *possession, custody or control of the public record*; and

27 (2) The name and address of the governmental entity that has
28 ~~legal~~ *possession*, custody or control of the public ~~book or~~ record,
29 if known.

30 (c) Except as otherwise provided in paragraph (d), if the
31 governmental entity is unable to make the public ~~book or~~ record
32 available by the end of the fifth business day after the date on which
33 the person who has ~~legal~~ *possession*, custody or control of the
34 public ~~book or~~ record received the request ~~to provide~~ :

35 (1) *Provide* to the person, in writing ~~to~~:

36 ~~(1) Notice~~ *notice* of ~~that~~ *the fact that it is unable to*
37 *make the public record available by that date* and

38 ~~(2) At~~ *the earliest* date and time after which the
39 *governmental entity reasonably believes the public* ~~book or~~ record
40 will be available for the person to inspect or copy or after which a
41 copy of the public ~~book or~~ record will be available to the person. If
42 the public ~~book or~~ record or the copy of the public ~~book or~~
43 record is not available to the person by that date and time, the
44 ~~person may inquire regarding the status of the request.~~
45 *governmental entity shall provide to the person, in writing, an*



1 *explanation of the reason the public record is not available and a*
2 *date and time after which the governmental entity reasonably*
3 *believes the public record will be available for the person to*
4 *inspect or copy or after which a copy of the public record will be*
5 *available to the person.*

6 (2) *Make a reasonable effort to assist the requester to focus*
7 *the request in such a manner as to maximize the likelihood the*
8 *requester will be able to inspect, copy or receive a copy of the*
9 *public record as expeditiously as possible, including, without*
10 *limitation, by:*

11 (I) *Advising the requester regarding terms to be used or*
12 *the applicable database in which to perform a search for the*
13 *public record;*

14 (II) *Eliciting additional clarifying information from the*
15 *requester that will assist the person who has possession, custody or*
16 *control of a public record in identifying the public record;*

17 (III) *Providing suggestions for overcoming any practical*
18 *basis that would deny or otherwise limit access to the public*
19 *record; and*

20 (IV) *Describing the manner in which the public record*
21 *is stored, including, without limitation, whether the public record*
22 *is stored electronically.*

23 (d) *If the governmental entity must deny the person's request*
24 *because the public ~~book or~~ record, or a part thereof, is*
25 *confidential, provide to the person, in writing:*

26 (1) *Notice of that fact; and*

27 (2) *A citation to the specific statute or other legal authority*
28 *that makes the public ~~book or~~ record, or a part thereof,*
29 *confidential.*

30 2. *If a public ~~book or~~ record of a governmental entity is*
31 *readily available for inspection or copying, the person who has*
32 *~~legal~~ possession, custody or control of the public ~~book or~~ record*
33 *shall allow a person who has submitted a request to inspect, copy or*
34 *receive a copy of a public ~~book or~~ record ~~to~~ as expeditiously as*
35 *practicable.*

36 3. *In addition to performing the actions required by*
37 *subsections 1 and 2, the person who has possession, custody or*
38 *control of a public record of a governmental entity shall provide in*
39 *writing to a person who makes a request for the public record:*

40 (a) *The name and title or position of the person responsible for*
41 *making the decision on behalf of the governmental entity*
42 *concerning the action the governmental entity will take pursuant*
43 *to this section concerning the request or any other decision in*
44 *connection with the request; and*



1 **(b) Contact information for the person described in paragraph**
2 **(a), including, without limitation, his or her business address,**
3 **telephone number and electronic mail address.**

4 **Sec. 7.** NRS 239.011 is hereby amended to read as follows:

5 239.011 1. If a request for inspection, copying or copies of a
6 public ~~book or~~ record open to inspection and copying is denied ~~to~~
7 **or unreasonably delayed or if a person who requests a copy of a**
8 **public record believes that the fee charged by the governmental**
9 **entity for providing the copy of the public record is excessive or**
10 **improper,** the requester may apply to the district court in the county
11 in which the ~~book or~~ record is located for an order:

12 (a) Permitting the requester to inspect or copy the ~~book or~~
13 record; ~~or~~

14 (b) Requiring the person who has ~~legal~~ possession, custody or
15 control of the public ~~book or~~ record to provide a copy to the
16 requester ~~to~~; or

17 (c) **Providing relief relating to the amount of the fee,**
18 ↪ as applicable.

19 2. The court shall give this matter priority over other civil
20 matters to which priority is not given by other statutes. If the
21 requester prevails, the requester is entitled to recover ~~this~~ **from the**
22 **governmental entity that has possession, custody or control of the**
23 **record:**

24 (a) **His** or her costs and reasonable attorney's fees in the
25 proceeding ~~from the governmental entity whose officer has custody~~
26 ~~of the book or record.~~; and

27 (b) **One hundred dollars per day for each day he or she was**
28 **denied the right to inspect, copy or receive a copy of the public**
29 **record.**

30 3. **If the governmental entity appeals the decision of the**
31 **district court and the decision is affirmed in whole or in part, the**
32 **requester is entitled to recover from the governmental entity that**
33 **has possession, custody or control of the record:**

34 (a) **His** or her costs and reasonable attorney's fees for the
35 appeal; and

36 (b) **One hundred dollars per day for each day he or she was**
37 **denied the right to inspect, copy or receive a copy of the public**
38 **record.**

39 4. **The rights and remedies recognized by this section are in**
40 **addition to any other rights or remedies that may exist in law or in**
41 **equity.**

42 **Sec. 8.** NRS 239.0113 is hereby amended to read as follows:

43 239.0113 Except as otherwise provided in NRS 239.0115, if:

44 1. The confidentiality of a public ~~book or~~ record, or a part
45 thereof, is at issue in a judicial or administrative proceeding; and



1 2. The governmental entity that has ~~legal~~ *possession*, custody
2 or control of the public ~~book or~~ record asserts that the public ~~book~~
3 ~~or~~ record, or a part thereof, is confidential,
4 ↳ the governmental entity has the burden of proving by a
5 preponderance of the evidence that the public ~~book or~~ record, or a
6 part thereof, is confidential.

7 **Sec. 9.** NRS 239.0115 is hereby amended to read as follows:

8 239.0115 1. Except as otherwise provided in this subsection
9 and subsection 3, notwithstanding any provision of law that has
10 declared a public ~~book or~~ record, or a part thereof, to be
11 confidential, if a public ~~book or~~ record has been in the ~~legal~~
12 *possession*, custody or control of one or more governmental entities
13 for at least 30 years, a person may apply to the district court of the
14 county in which the governmental entity that currently has ~~legal~~
15 *possession*, custody or control of the public ~~book or~~ record is
16 located for an order directing that governmental entity to allow the
17 person to inspect or copy the public ~~book or~~ record, or a part
18 thereof. If the public ~~book or~~ record pertains to a natural person, a
19 person may not apply for an order pursuant to this subsection until
20 the public ~~book or~~ record has been in the ~~legal~~ *possession*,
21 custody or control of one or more governmental entities for at least
22 30 years or until the death of the person to whom the public ~~book~~
23 ~~or~~ record pertains, whichever is later.

24 2. There is a rebuttable presumption that a person who applies
25 for an order as described in subsection 1 is entitled to inspect or
26 copy the public ~~book or~~ record, or a part thereof, that the person
27 seeks to inspect or copy.

28 3. The provisions of subsection 1 do not apply to any ~~book or~~
29 record:

30 (a) Declared confidential pursuant to NRS 463.120.

31 (b) Containing personal information pertaining to a victim of
32 crime that has been declared by law to be confidential.

33 **Sec. 10.** NRS 239.012 is hereby amended to read as follows:

34 239.012 1. A public officer or employee who acts in good
35 faith in disclosing or refusing to disclose information and the
36 employer of the public officer or employee are immune from
37 liability for damages, either to the requester or to the person whom
38 the information concerns. *Such damages do not include any costs*
39 *and reasonable attorney's fees or other monetary amount awarded*
40 *to the requester pursuant to NRS 239.011 or section 1 of this act.*

41 2. *For the purposes of subsection 1, the public officer or*
42 *employee or his or her employer, as applicable, has the burden of*
43 *proving by a preponderance of the evidence that the public officer*
44 *or employee acted in good faith in refusing to disclose*
45 *information.*



1 **Sec. 11.** The amendatory provisions of this act apply to all
2 actions pending or filed on or after October 1, 2019.

3 **Sec. 12.** 1. When the next reprint of Nevada Revised
4 Statutes is prepared by the Legislative Counsel, the Legislative
5 Counsel shall replace the term "public book or record" as it appears
6 in the Nevada Revised Statutes with the term "public record" in the
7 manner provided in this act.

8 2. The Legislative Counsel shall, in preparing supplements to
9 the Nevada Administrative Code, make such changes as necessary
10 so that the term "public book or record" is replaced with the term
11 "public record" as provided for in this act.

12 3. To the extent that revisions are made to Nevada Revised
13 Statutes pursuant to subsection 1, the revisions shall be construed as
14 nonsubstantive and it is not the intent of the Nevada Legislature to
15 modify any existing interpretations of any statute which is so
16 revised.

17 **Sec. 13.** NRS 239.055 is hereby repealed.

TEXT OF REPEALED SECTION

239.055 Additional fee when extraordinary use of personnel or resources is required; limitation.

1. Except as otherwise provided in NRS 239.054 regarding information provided from a geographic information system, if a request for a copy of a public record would require a governmental entity to make extraordinary use of its personnel or technological resources, the governmental entity may, in addition to any other fee authorized pursuant to this chapter, charge a fee not to exceed 50 cents per page for such extraordinary use. Such a request must be made in writing, and upon receiving such a request, the governmental entity shall inform the requester, in writing, of the amount of the fee before preparing the requested information. The fee charged by the governmental entity must be reasonable and must be based on the cost that the governmental entity actually incurs for the extraordinary use of its personnel or technological resources. The governmental entity shall not charge such a fee if the governmental entity is not required to make extraordinary use of its personnel or technological resources to fulfill additional requests for the same information.



* 5 8 2 8 7 *

2. As used in this section, “technological resources” means any information, information system or information service acquired, developed, operated, maintained or otherwise used by a governmental entity.

③⑩



* S B 2 8 7 *

Exhibit 2

Senate Bill No. 287—Senators Parks, Hansen, Spearman;
Cancela, Denis, Kieckhefer, Scheible and Woodhouse

CHAPTER.....

AN ACT relating to public records; revising provisions relating to the manner of providing copies of public records; revising provisions governing the actions taken by governmental entities in response to requests for public records; revising provisions relating to the relief provided for a requester of a public record who prevails in a legal proceeding; revising provisions governing the fees that governmental entities are authorized to charge for a copy of a public record; providing civil penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that all public books and public records of a state or local governmental entity, unless otherwise declared by law to be confidential, are required to be open at all times during office hours for the public to inspect, copy or receive a copy thereof. Existing law also authorizes a person to request a copy of a public record in any medium in which the public record is readily available. (NRS 239.010) The purpose of the existing law governing public records, as stated in the legislative declaration for that law, is, in part, to foster democratic principles by providing members of the public with access to inspect and copy public books and records to the extent permitted by law. (NRS 239.001) **Section 2** of this bill provides that the legislative intent is for such access to be provided promptly. **Sections 2 and 4** of this bill make changes to conform with existing law which provides that, in addition to the right to inspect and copy a public record, members of the public have the right to receive a copy of a public record upon request.

With certain exceptions, existing law prohibits a governmental entity from charging a fee for providing a copy of a public record that exceeds the actual cost to the governmental entity to provide the copy. (NRS 239.052) **Section 3** of this bill clarifies that the actual cost to a governmental entity includes such direct costs as the cost of ink, toner, paper, media and postage. **Section 13** of this bill eliminates the authority of a governmental entity to charge an additional fee for providing a copy of a public record when extraordinary use of personnel or resources is required. (NRS 239.055)

Section 5 of this bill specifically authorizes the electronic redaction of public books and records. **Section 5** also requires, with limited exception, a governmental entity, if requested, to provide a copy of a public record in an electronic format by means of an electronic medium unless the public record was requested in a different medium.

Under existing law, if a person requests to inspect or copy a public book or record or receive a copy of a public book or record which the governmental entity is unable to make available by the end of the fifth business day after the request was received, the governmental entity is required to provide written notice of that fact to the person who made the request and the date and time after which the public record or the copy of the public book or record will be available. (NRS 239.0107) **Section 6** of this bill clarifies that the date and time provided to the requester must reflect the earliest date and time after which the governmental entity reasonably believes the public book or record will be available. If the public book



or record is not made available by this date and time, **section 6** requires the governmental entity to provide to the requester, in writing, an explanation of the reason the public book or record is not available and a date and time after which the governmental entity reasonably believes the public book or record will be available. **Section 6** also requires a governmental entity that is unable to provide access to a public book or record within the prescribed time period to make a reasonable effort to assist the requester to focus the request in such a manner as to maximize the likelihood the requester will be able to inspect, copy or receive a copy of the public book or record as expeditiously as possible.

If a request for inspection, copying or copies of a public book or record is denied, existing law authorizes a requester to apply to a district court for an order permitting the requester to inspect or copy the record or requiring the person who has legal custody or control of the public record to provide a copy to the requester. Existing law provides that if the requester prevails in such a proceeding, the requester is entitled to recover his or her costs and reasonable attorney's fees in the proceeding from the governmental entity whose officer has custody of the book or record. (NRS 239.011) **Section 7** of this bill authorizes a requester of a public record to apply to a district court for a similar order if a request for inspection, copying or copies of a public record is unreasonably delayed or if a person who requests a copy of a public book or record believes that the fee charged by the governmental entity for providing the copy of the public book or record is excessive or improper. **Section 1** of this bill provides that if a court determines that a governmental entity willfully failed to comply with the existing law governing public books and records concerning a request to inspect, copy or receive a copy of a public book or record, the court must impose on the governmental entity a civil penalty.

Section 11 of this bill provides that the provisions of the bill apply to actions filed on and after October 1, 2019, which is the effective date of this bill.

EXPLANATION - Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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

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

1. In addition to any relief awarded pursuant to NRS 239.011, if a court determines that a governmental entity willfully failed to comply with the provisions of this chapter concerning a request to inspect, copy or receive a copy of a public book or record, the court must impose on the governmental entity a civil penalty of:

- (a) For a first violation within a 10-year period, \$1,000.*
- (b) For a second violation within a 10-year period, \$5,000.*
- (c) For a third or subsequent violation within a 10-year period, \$10,000.*

2. A civil penalty imposed pursuant to subsection 1 must be deposited in and accounted for separately in the State General



Fund. The money in the account may be used only by the Division of State Library, Archives and Public Records of the Department of Administration to improve access to public records, and is hereby authorized for expenditure as a continuing appropriation for this purpose.

3. *The rights and remedies recognized by this section are in addition to any other rights or remedies that may exist in law or in equity.*

Sec. 2. NRS 239.001 is hereby amended to read as follows:

239.001 The Legislature hereby finds and declares that:

1. The purpose of this chapter is to foster democratic principles by providing members of the public with *prompt* access to inspect , ~~and~~ *copy or receive a copy of* public books and records to the extent permitted by law;

2. The provisions of this chapter must be construed liberally to carry out this important purpose;

3. Any exemption, exception or balancing of interests which limits or restricts access to public books and records by members of the public must be construed narrowly;

4. The use of private entities in the provision of public services must not deprive members of the public access to inspect , ~~and~~ *copy* ~~books and~~ *or receive a copy of books and* records relating to the provision of those services; and

5. If a public book or record is declared by law to be open to the public, such a declaration does not imply, and must not be construed to mean, that a public book or record is confidential if it is not declared by law to be open to the public and is not otherwise declared by law to be confidential.

Sec. 3. NRS 239.005 is hereby amended to read as follows:

239.005 As used in this chapter, unless the context otherwise requires:

1. "Actual cost" means the direct cost ~~related to the reproduction~~ *incurred by a governmental entity in the provision of a public record* ~~+~~ , *including, without limitation, the cost of ink, toner, paper, media and postage.* The term does not include a cost that a governmental entity incurs regardless of whether or not a person requests a copy of a particular public record.

2. "Agency of the Executive Department" means an agency, board, commission, bureau, council, department, division, authority or other unit of the Executive Department of the State Government. The term does not include the Nevada System of Higher Education.

3. "Committee" means the Committee to Approve Schedules for the Retention and Disposition of Official State Records.



4. "Division" means the Division of State Library, Archives and Public Records of the Department of Administration.

5. "Governmental entity" means:

(a) An elected or appointed officer of this State or of a political subdivision of this State;

(b) An institution, board, commission, bureau, council, department, division, authority or other unit of government of this State, including, without limitation, an agency of the Executive Department, or of a political subdivision of this State;

(c) A university foundation, as defined in NRS 396.405;

(d) An educational foundation, as defined in NRS 388.750, to the extent that the foundation is dedicated to the assistance of public schools; or

(e) A library foundation, as defined in NRS 379.0056, to the extent that the foundation is dedicated to the assistance of a public library.

6. "Official state record" includes, without limitation:

(a) Papers, unpublished books, maps and photographs;

(b) Information stored on magnetic tape or computer, laser or optical disc;

(c) Materials that are capable of being read by a machine, including, without limitation, microforms and audio and visual materials; and

(d) Materials that are made or received by a state agency and preserved by that agency or its successor as evidence of the organization, operation, policy or any other activity of that agency or because of the information contained in the material.

7. "Privatization contract" means a contract executed by or on behalf of a governmental entity which authorizes a private entity to provide public services that are:

(a) Substantially similar to the services provided by the public employees of the governmental entity; and

(b) In lieu of the services otherwise authorized or required to be provided by the governmental entity.

Sec. 4. NRS 239.008 is hereby amended to read as follows:

239.008 1. The head of each agency of the Executive Department shall designate one or more employees of the agency to act as records official for the agency.

2. A records official designated pursuant to subsection 1 shall carry out the duties imposed pursuant to this chapter on the agency of the Executive Department that designated him or her with respect to a request to inspect, ~~to~~ copy or receive a copy of a public book or record of the agency.



3. The State Library, Archives and Public Records Administrator, pursuant to NRS 378.255 and in cooperation with the Attorney General, shall prescribe:

(a) The form for a request by a person to inspect, ~~to~~ copy *or receive a copy of* a public book or record of an agency of the Executive Department pursuant to NRS 239.0107;

(b) The form for the written notice required to be provided by an agency of the Executive Department pursuant to paragraph (b), (c) or (d) of subsection 1 of NRS 239.0107; and

(c) By regulation the procedures with which a records official must comply in carrying out his or her duties.

4. Each agency of the Executive Department shall make available on any website maintained by the agency on the Internet or its successor the forms and procedures prescribed by the State Library, Archives and Public Records Administrator and the Attorney General pursuant to subsection 3.

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

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503,



293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077,



686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

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

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate, *including, without limitation, electronically*, the confidential information from the information included in the public book or record that is not otherwise confidential.

4. ~~{A person may request}~~ *If requested, a governmental entity shall provide a copy of a public record in ~~{any}~~ an electronic format by means of an electronic medium. ~~{in which the public record is readily available.}~~ Nothing in this subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:*

(a) The public record:

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

and

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

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

(1) Give access to proprietary software; or



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

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

(a) Shall not refuse to provide a copy of that public record in ~~the~~ ~~readily available~~ *the medium that is requested* because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

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

Sec. 6. NRS 239.0107 is hereby amended to read as follows:

239.0107 1. Not later than the end of the fifth business day after the date on which the person who has legal custody or control of a public book or record of a governmental entity receives a written or oral request from a person to inspect, copy or receive a copy of the public book or record, a governmental entity shall do one of the following, as applicable:

(a) Except as otherwise provided in subsection 2, allow the person to inspect or copy the public book or record or, if the request is for the person to receive a copy of the public book or record, provide such a copy to the person.

(b) If the governmental entity does not have legal custody or control of the public book or record, provide to the person, in writing:

(1) Notice of ~~that~~ *the fact that it does not have legal custody or control of the public book or record;* and

(2) The name and address of the governmental entity that has legal custody or control of the public book or record, if known.

(c) Except as otherwise provided in paragraph (d), if the governmental entity is unable to make the public book or record available by the end of the fifth business day after the date on which the person who has legal custody or control of the public book or record received the request ~~to provide~~ :

(1) *Provide* to the person, in writing ~~to~~ :

~~(1) Notice~~ *notice* of ~~that~~ *the fact that it is unable to make the public book or record available by that date* and

~~(2) At~~ *the earliest* date and time after which the governmental entity reasonably believes the public book or record will be available for the person to inspect or copy or after which a copy of the public book or record will be available to the person. If



the public book or record or the copy of the public book or record is not available to the person by that date and time, the ~~person may inquire regarding the status of the request.~~ *governmental entity shall provide to the person, in writing, an explanation of the reason the public book or record is not available and a date and time after which the governmental entity reasonably believes the public book or record will be available for the person to inspect or copy or after which a copy of the public book or record will be available to the person.*

(2) *Make a reasonable effort to assist the requester to focus the request in such a manner as to maximize the likelihood the requester will be able to inspect, copy or receive a copy of the public book or record as expeditiously as possible.*

(d) If the governmental entity must deny the person's request because the public book or record, or a part thereof, is confidential, provide to the person, in writing:

(1) Notice of that fact; and

(2) A citation to the specific statute or other legal authority that makes the public book or record, or a part thereof, confidential.

2. If a public book or record of a governmental entity is readily available for inspection or copying, the person who has legal custody or control of the public book or record shall allow a person who has submitted a request to inspect, copy or receive a copy of a public book or record ~~to~~ *as expeditiously as practicable.*

Sec. 7. NRS 239.011 is hereby amended to read as follows:

239.011 1. If a request for inspection, copying or copies of a public book or record open to inspection and copying is denied ~~to~~ *or unreasonably delayed or if a person who requests a copy of a public book or record believes that the fee charged by the governmental entity for providing the copy of the public book or record is excessive or improper*, the requester may apply to the district court in the county in which the book or record is located for an order:

(a) Permitting the requester to inspect or copy the book or record; ~~or~~

(b) Requiring the person who has legal custody or control of the public book or record to provide a copy to the requester ~~to~~; *or*

(c) *Providing relief relating to the amount of the fee,*
↪ *as applicable.*

2. The court shall give this matter priority over other civil matters to which priority is not given by other statutes. If the requester prevails, the requester is entitled to recover ~~this~~ *from the governmental entity that has legal custody or control of the record*



his or her costs and reasonable attorney's fees in the proceeding .
~~*[from the governmental entity whose officer has custody of the book or record.]*~~

3. If the governmental entity appeals the decision of the district court and the decision is affirmed in whole or in part, the requester is entitled to recover from the governmental entity that has legal custody or control of the record his or her costs and reasonable attorney's fees for the appeal.

4. The rights and remedies recognized by this section are in addition to any other rights or remedies that may exist in law or in equity.

Secs. 8-10. (Deleted by amendment.)

Sec. 11. The amendatory provisions of this act apply to all actions filed on or after October 1, 2019.

Sec. 12. (Deleted by amendment.)

Sec. 13. NRS 239.055 is hereby repealed.

