

LEGISLATIVE BILL 590

Approved by the Governor April 12, 1993

Introduced by Pedersen, 39; Day, 19; Fisher, 35; Hillman, 48;
Hohenstein, 17; Pirsch, 10; Witek, 31

AN ACT relating to public records; to amend sections 39-6,104.06, 39-6,104.07, 39-6,104.08, 39-6,104.11, 39-6,104.12, and 84-712.05, Reissue Revised Statutes of Nebraska, 1943; to change the department with which certain reports are filed; to provide for disclosure of certain information relating to fatal motor vehicle accidents as prescribed; to change provisions relating to withholding of records; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 39-6,104.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-6,104.06. Any coroner or other official performing the duties of coroner shall report in writing to the Department of ~~Motor Vehicles~~ Roads the death of any person within his or her jurisdiction as the result of an accident involving a motor vehicle and the circumstances of such accident. Such report by the coroner shall be made within ten days after such death.

Sec. 2. That section 39-6,104.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-6,104.07. In the case of a driver who dies within four hours after being in a motor vehicle accident, including a motor vehicle accident in which one or more persons in addition to such driver is killed, and of a pedestrian sixteen years of age or older who dies within four hours after being struck by a motor vehicle, the coroner or other official performing the duties of coroner shall examine the body and cause such tests to be made as are necessary to determine the ~~presence and percentage concentration~~ amount of alcohol or drugs ~~therein in the body of such driver or pedestrian~~. Such information shall be included in each report submitted pursuant to the provisions of sections 39-6,104.06 to 39-6,104.12 and shall be tabulated on a monthly basis by the Department of ~~Motor Vehicles~~ Roads. Such information, ~~including shall be used only for statistical purposes which do not reveal the identity of the deceased and any such amount of alcohol or drugs, shall be public information and may be released or disclosed as provided in rules and regulations of the department.~~

Sec. 3. That section 39-6,104.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-6,104.08. Any surviving driver or pedestrian sixteen years of age or older who is involved in a motor vehicle accident in which

a person is killed shall be requested, if he or she has not otherwise been directed by a law enforcement officer to submit to a chemical test under section 39-669.08, to submit to a chemical test of his blood, urine, or breath as the law enforcement officer ~~shall direct~~ directs for the purpose of determining the amount of alcohol or drugs in his or her body fluid. The results of such test shall be reported in writing to the ~~Director of Motor Vehicles~~ Director-State Engineer who shall tabulate such results on a monthly basis. Such information, including shall be used only for statistical purposes which do not reveal the identity of the surviving drivers or surviving pedestrians such driver or pedestrian and any such amount of alcohol or drugs, shall be public information and may be released or disclosed as provided in rules and regulations of the Department of Roads. The provisions of sections 39-669.09, 39-669.10, and 39-669.12; shall, when applicable, apply to the tests provided for in this section.

Sec. 4. That section 39-6,104.11, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-6,104.11. The Department of ~~Motor Vehicles~~ Roads shall reimburse any county for expenses and costs incurred by the county pursuant to sections 39-6,104.06 to 39-6,104.12. The ~~Department of Motor Vehicles~~ department shall provide the official in each county with the appropriate reporting form.

Sec. 5. That section 39-6,104.12, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-6,104.12. ~~The~~ (1) Except as provided in subsection (2) of this section, the Department of Health shall adopt necessary rules and regulations for the administration of the provisions of sections 39-6,104.06 to 39-6,104.12.

(2) The Department of Roads shall adopt and promulgate rules and regulations which shall provide for the release and disclosure of the results of tests conducted under sections 39-6,104.07 and 39-6,104.08.

Sec. 6. That section 84-712.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-712.05. The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting; or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

(1) Personal information in records regarding a student, prospective student, or former student of any tax-supported educational institution maintaining such records, other than routine directory information;

(2) Medical records, other than records of births and deaths and except as provided in subdivision (5) of this section, in any form concerning any person, and also records of elections filed under section 44-2821;

(3) Trade secrets, academic and scientific research work which is in progress and unpublished, and other proprietary or commercial information which if released would give advantage to

business competitors and serve no public purpose;

(4) Records which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotiations, or claims made by or against the public body, or which are confidential communications as defined in section 27-503;

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training, except that this subdivision shall not apply to records so developed or received relating to the presence of and amount or concentration of alcohol or drugs in the blood of any person;

(6) Appraisals or appraisal information and negotiation records, concerning the purchase or sale, by a public body, of any interest in real or personal property, prior to completion of the purchase or sale;

(7) Personal information in records regarding personnel of public bodies other than salaries and routine directory information;

(8) Information solely pertaining to protection of the physical security of public property such as guard schedules or lock combinations;

(9) With respect to public utilities, personally identified private citizen account payment information, credit information on others supplied in confidence, and customer lists;

(10) Records or portions of records kept by a publicly funded library which, when examined with or without other records, reveal the identity of any library patron using the library's materials or services; and

(11) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the Legislature.

Sec. 7. That original sections 39-6,104.06, 39-6,104.07, 39-6,104.08, 39-6,104.11, 39-6,104.12, and 84-712.05, Reissue Revised Statutes of Nebraska, 1943, are repealed.