

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 389

FINAL READING

Introduced by Aguilar, 35

Read first time January 16, 2007

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to public records; to amend section 84-712.05,
2 Revised Statutes Cumulative Supplement, 2006; to change
3 provisions relating to job application materials; to
4 repeal the original section; and to declare an emergency.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 84-712.05, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 84-712.05 The following records, unless publicly
4 disclosed in an open court, open administrative proceeding, or open
5 meeting or disclosed by a public entity pursuant to its duties, may
6 be withheld from the public by the lawful custodian of the records:

7 (1) Personal information in records regarding a student,
8 prospective student, or former student of any educational
9 institution or exempt school that has effectuated an election
10 not to meet state approval or accreditation requirements pursuant
11 to section 79-1601 when such records are maintained by and in
12 the possession of a public entity, other than routine directory
13 information specified and made public consistent with 20 U.S.C.
14 1232g, as such section existed on January 1, 2003;

15 (2) Medical records, other than records of births and
16 deaths and except as provided in subdivision (5) of this section,
17 in any form concerning any person; records of elections filed under
18 section 44-2821; and patient safety work product under the Patient
19 Safety Improvement Act;

20 (3) Trade secrets, academic and scientific research work
21 which is in progress and unpublished, and other proprietary or
22 commercial information which if released would give advantage to
23 business competitors and serve no public purpose;

24 (4) Records which represent the work product of an
25 attorney and the public body involved which are related to

1 preparation for litigation, labor negotiations, or claims made by
2 or against the public body or which are confidential communications
3 as defined in section 27-503;

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

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

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

21 (8) Information solely pertaining to protection of the
22 security of public property and persons on or within public
23 property, such as specific, unique vulnerability assessments or
24 specific, unique response plans, either of which is intended
25 to prevent or mitigate criminal acts the public disclosure of

1 which would create a substantial likelihood of endangering public
2 safety or property; computer or communications network schema,
3 passwords, and user identification names; guard schedules; or lock
4 combinations;

5 (9) The security standards, procedures, policies, plans,
6 specifications, diagrams, access lists, and other security-related
7 records of the Lottery Division of the Department of Revenue and
8 those persons or entities with which the division has entered into
9 contractual relationships. Nothing in this subdivision shall allow
10 the division to withhold from the public any information relating
11 to amounts paid persons or entities with which the division has
12 entered into contractual relationships, amounts of prizes paid, the
13 name of the prize winner, and the city, village, or county where
14 the prize winner resides;

15 (10) With respect to public utilities and except as
16 provided in sections 43-512.06 and 70-101, personally identified
17 private citizen account payment information, credit information on
18 others supplied in confidence, and customer lists;

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

23 (12) Correspondence, memoranda, and records of telephone
24 calls related to the performance of duties by a member of
25 the Legislature in whatever form. The lawful custodian of the

1 correspondence, memoranda, and records of telephone calls, upon
2 approval of the Executive Board of the Legislative Council, shall
3 release the correspondence, memoranda, and records of telephone
4 calls which are not designated as sensitive or confidential in
5 nature to any person performing an audit of the Legislature. A
6 member's correspondence, memoranda, and records of confidential
7 telephone calls related to the performance of his or her
8 legislative duties shall only be released to any other person with
9 the explicit approval of the member;

10 (13) Records or portions of records kept by public
11 bodies which would reveal the location, character, or ownership
12 of any known archaeological, historical, or paleontological site
13 in Nebraska when necessary to protect the site from a reasonably
14 held fear of theft, vandalism, or trespass. This section shall not
15 apply to the release of information for the purpose of scholarly
16 research, examination by other public bodies for the protection of
17 the resource or by recognized tribes, the Unmarked Human Burial
18 Sites and Skeletal Remains Protection Act, or the federal Native
19 American Graves Protection and Repatriation Act;

20 (14) Records or portions of records kept by public
21 bodies which maintain collections of archaeological, historical, or
22 paleontological significance which reveal the names and addresses
23 of donors of such articles of archaeological, historical, or
24 paleontological significance unless the donor approves disclosure,
25 except as the records or portions thereof may be needed to carry

1 out the purposes of the Unmarked Human Burial Sites and Skeletal
2 Remains Protection Act or the federal Native American Graves
3 Protection and Repatriation Act;

4 ~~(15) Job application materials submitted by applicants,~~
5 ~~other than finalists,~~ who have applied for employment by any
6 public body as defined in section 84-1409. For purposes of
7 this subdivision, job application materials means employment
8 applications, resumes, reference letters, and school transcripts,
9 and finalist means any applicant who is offered and who accepts
10 an interview by a public body or its agents, representatives, or
11 consultants for any public employment position; and

12 (15) Job application materials submitted by applicants,
13 other than finalists, who have applied for employment by any
14 public body as defined in section 84-1409. For purposes of
15 this subdivision, (a) job application materials means employment
16 applications, resumes, reference letters, and school transcripts
17 and (b) finalist means any applicant (i) who reaches the final pool
18 of applicants, numbering four or more, from which the successful
19 applicant is to be selected, (ii) who is an original applicant
20 when the final pool of applicants numbers less than four, or (iii)
21 who is an original applicant and there are four or fewer original
22 applicants; and

23 (16) Social security numbers; credit card, charge card,
24 or debit card numbers and expiration dates; and financial account
25 numbers supplied to state and local governments by citizens.

1 Sec. 2. Original section 84-712.05, Revised Statutes
2 Cumulative Supplement, 2006, is repealed.

3 Sec. 3. Since an emergency exists, this act takes effect
4 when passed and approved according to law.