

AMENDMENTS TO LB557

Introduced by Government, Military and Veterans Affairs.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 81-1454, Revised Statutes Cumulative Supplement,
4 2020, is amended to read:

5 81-1454 (1) A body-worn camera policy required by section 81-1453
6 shall include provisions which govern the use of body-worn cameras by
7 peace officers and the retention and disposition of recordings created
8 with such cameras by law enforcement agencies. Such body-worn camera
9 policy shall include, but not be limited to:

10 (a) ~~(1)~~ A requirement that training be provided to any peace officer
11 who will use a body-worn camera and to any other employee who will come
12 into contact with video or audio data recorded by a body-worn camera;

13 (b) ~~(2)~~ A requirement that recordings created by body-worn cameras
14 shall be retained for a minimum period of ninety days from the date of
15 recording. Such recordings shall be retained for more than ninety days if
16 required by the following circumstances:

17 (i) ~~(a)~~ Upon notice to the law enforcement agency of a criminal or
18 civil court proceeding in which the recording may have evidentiary value
19 or in which the recording is otherwise involved, the recording shall be
20 retained until final judgment has been entered in the proceeding;

21 (ii) ~~(b)~~ Upon notice to the law enforcement agency of a disciplinary
22 proceeding against an employee of the agency in which the recording may
23 have evidentiary value or in which the recording is otherwise involved,
24 the recording shall be retained until a final determination has been made
25 in such proceeding; and

26 (iii) ~~(c)~~ If the recording is part of a criminal investigation that
27 has not resulted in an arrest or prosecution, the recording shall be

1 retained until the investigation is officially closed or suspended; and
2 ~~(c) (3)~~ A procedure governing the destruction of recordings after
3 the retention period described in subdivision ~~(1)(b) (2)~~ of this section
4 has elapsed.

5 (2) Following the conclusion of any grand jury impaneled pursuant to
6 subsection (4) of section 29-1401, recordings created by body-worn
7 cameras which depict or record circumstances in which a person died while
8 being apprehended by, or while in the custody of, a law enforcement
9 officer or detention personnel, including duplicates of such recordings,
10 are public records under section 84-712.01.

11 Sec. 2. Section 84-712.05, Revised Statutes Cumulative Supplement,
12 2020, is amended to read:

13 84-712.05 The following records, unless publicly disclosed in an
14 open court, open administrative proceeding, or open meeting or disclosed
15 by a public entity pursuant to its duties, may be withheld from the
16 public by the lawful custodian of the records:

17 (1) Personal information in records regarding a student, prospective
18 student, or former student of any educational institution or exempt
19 school that has effectuated an election not to meet state approval or
20 accreditation requirements pursuant to section 79-1601 when such records
21 are maintained by and in the possession of a public entity, other than
22 routine directory information specified and made public consistent with
23 20 U.S.C. 1232g, as such section existed on February 1, 2013, and
24 regulations adopted thereunder;

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

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

1 no public purpose;

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

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

13 (a) Relating to the presence of and amount or concentration of
14 alcohol or drugs in any body fluid of any person;~~or~~

15 (b) Relating to the cause of or circumstances surrounding the death
16 of an employee arising from or related to his or her employment if, after
17 an investigation is concluded, a family member of the deceased employee
18 makes a request for access to or copies of such records. This subdivision
19 does not require access to or copies of informant identification, the
20 names or identifying information of citizens making complaints or
21 inquiries, other information which would compromise an ongoing criminal
22 investigation, or information which may be withheld from the public under
23 another provision of law. For purposes of this subdivision, family member
24 means a spouse, child, parent, sibling, grandchild, or grandparent by
25 blood, marriage, or adoption; or

26 (c) Relating to recordings described in subsection (2) of section
27 81-1454;

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

31 (7) Personal information in records regarding personnel of public

1 bodies other than salaries and routine directory information;

2 (8) Information solely pertaining to protection of the security of
3 public property and persons on or within public property, such as
4 specific, unique vulnerability assessments or specific, unique response
5 plans, either of which is intended to prevent or mitigate criminal acts
6 the public disclosure of which would create a substantial likelihood of
7 endangering public safety or property; computer or communications network
8 schema, passwords, and user identification names; guard schedules; lock
9 combinations; or public utility infrastructure specifications or design
10 drawings the public disclosure of which would create a substantial
11 likelihood of endangering public safety or property, unless otherwise
12 provided by state or federal law;

13 (9) Information that relates details of physical and cyber assets of
14 critical energy infrastructure or critical electric infrastructure,
15 including (a) specific engineering, vulnerability, or detailed design
16 information about proposed or existing critical energy infrastructure or
17 critical electric infrastructure that (i) relates details about the
18 production, generation, transportation, transmission, or distribution of
19 energy, (ii) could be useful to a person in planning an attack on such
20 critical infrastructure, and (iii) does not simply give the general
21 location of the critical infrastructure and (b) the identity of personnel
22 whose primary job function makes such personnel responsible for (i)
23 providing or granting individuals access to physical or cyber assets or
24 (ii) operating and maintaining physical or cyber assets, if a reasonable
25 person, knowledgeable of the electric utility or energy industry, would
26 conclude that the public disclosure of such identity could create a
27 substantial likelihood of risk to such physical or cyber assets.
28 Subdivision (9)(b) of this section shall not apply to the identity of a
29 chief executive officer, general manager, vice president, or board member
30 of a public entity that manages critical energy infrastructure or
31 critical electric infrastructure. The lawful custodian of the records

1 must provide a detailed job description for any personnel whose identity
2 is withheld pursuant to subdivision (9)(b) of this section. For purposes
3 of subdivision (9) of this section, critical energy infrastructure and
4 critical electric infrastructure mean existing and proposed systems and
5 assets, including a system or asset of the bulk-power system, whether
6 physical or virtual, the incapacity or destruction of which would
7 negatively affect security, economic security, public health or safety,
8 or any combination of such matters;

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

18 (11) With respect to public utilities and except as provided in
19 sections 43-512.06 and 70-101, personally identified private citizen
20 account payment and customer use information, credit information on
21 others supplied in confidence, and customer lists;

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

25 (13) Correspondence, memoranda, and records of telephone calls
26 related to the performance of duties by a member of the Legislature in
27 whatever form. The lawful custodian of the correspondence, memoranda, and
28 records of telephone calls, upon approval of the Executive Board of the
29 Legislative Council, shall release the correspondence, memoranda, and
30 records of telephone calls which are not designated as sensitive or
31 confidential in nature to any person performing an audit of the

1 Legislature. A member's correspondence, memoranda, and records of
2 confidential telephone calls related to the performance of his or her
3 legislative duties shall only be released to any other person with the
4 explicit approval of the member;

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

14 (15) Records or portions of records kept by public bodies which
15 maintain collections of archaeological, historical, or paleontological
16 significance which reveal the names and addresses of donors of such
17 articles of archaeological, historical, or paleontological significance
18 unless the donor approves disclosure, except as the records or portions
19 thereof may be needed to carry out the purposes of the Unmarked Human
20 Burial Sites and Skeletal Remains Protection Act or the federal Native
21 American Graves Protection and Repatriation Act;

22 (16) Library, archive, and museum materials acquired from
23 nongovernmental entities and preserved solely for reference, research, or
24 exhibition purposes, for the duration specified in subdivision (16)(b) of
25 this section, if:

26 (a) Such materials are received by the public custodian as a gift,
27 purchase, bequest, or transfer; and

28 (b) The donor, seller, testator, or transferor conditions such gift,
29 purchase, bequest, or transfer on the materials being kept confidential
30 for a specified period of time;

31 (17) Job application materials submitted by applicants, other than

1 finalists or a priority candidate for a position described in section
2 85-106.06 selected using the enhanced public scrutiny process in section
3 85-106.06, who have applied for employment by any public body as defined
4 in section 84-1409. For purposes of this subdivision, (a) job application
5 materials means employment applications, resumes, reference letters, and
6 school transcripts and (b) finalist means any applicant who is not an
7 applicant for a position described in section 85-106.06 and (i) who
8 reaches the final pool of applicants, numbering four or more, from which
9 the successful applicant is to be selected, (ii) who is an original
10 applicant when the final pool of applicants numbers less than four, or
11 (iii) who is an original applicant and there are four or fewer original
12 applicants;

13 (18)(a) Records obtained by the Public Employees Retirement Board
14 pursuant to section 84-1512 and (b) records maintained by the board of
15 education of a Class V school district and obtained by the board of
16 trustees for the administration of a retirement system provided for under
17 the Class V School Employees Retirement Act pursuant to section 79-989;

18 (19) Social security numbers; credit card, charge card, or debit
19 card numbers and expiration dates; and financial account numbers supplied
20 to state and local governments by citizens;

21 (20) Information exchanged between a jurisdictional utility and city
22 pursuant to section 66-1867;

23 (21) Draft records obtained by the Nebraska Retirement Systems
24 Committee of the Legislature and the Governor from Nebraska Public
25 Employees Retirement Systems pursuant to subsection (4) of section
26 84-1503;

27 (22) All prescription drug information submitted pursuant to section
28 71-2454, all data contained in the prescription drug monitoring system,
29 and any report obtained from data contained in the prescription drug
30 monitoring system; and

31 (23) Information obtained by any government entity, whether federal,

1 state, county, or local, regarding firearm registration, possession,
2 sale, or use that is obtained for purposes of an application permitted or
3 required by law or contained in a permit or license issued by such
4 entity. Such information shall be available upon request to any federal,
5 state, county, or local law enforcement agency.

6 Sec. 3. Original sections 81-1454 and 84-712.05, Revised Statutes
7 Cumulative Supplement, 2020, are repealed.