

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1018

Introduced by Geist, 25; Clements, 2.

Read first time January 16, 2018

Committee: Executive Board

- 1 A BILL FOR AN ACT relating to the Legislature; to amend section
2 84-712.05, Revised Statutes Cumulative Supplement, 2016; to provide
3 for inadmissibility of audio and video recordings of certain
4 legislative proceedings as prescribed; to require a notice regarding
5 prohibited uses of such recordings; to change provisions relating to
6 records that may be withheld from the public; and to repeal the
7 original section.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) Audio and video recordings of the proceedings of the
2 Legislature or of a committee or division of the Legislature are not
3 official records of such proceedings and shall not be admissible in any
4 proceeding as evidence of legislative history, actions, or intent.

5 (2) Any government web site offering access to audio and video
6 recordings of the proceedings of the Legislature or of a committee or
7 division of the Legislature shall require notification to each web site
8 user, using appropriate technology, that such recordings shall not be
9 used for political or commercial purposes.

10 Sec. 2. Section 84-712.05, Revised Statutes Cumulative Supplement,
11 2016, is amended to read:

12 84-712.05 The following records, unless publicly disclosed in an
13 open court, open administrative proceeding, or open meeting or disclosed
14 by a public entity pursuant to its duties, may be withheld from the
15 public by the lawful custodian of the records:

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

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

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

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

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

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

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

19 (8) Information solely pertaining to protection of the security of
20 public property and persons on or within public property, such as
21 specific, unique vulnerability assessments or specific, unique response
22 plans, either of which is intended to prevent or mitigate criminal acts
23 the public disclosure of which would create a substantial likelihood of
24 endangering public safety or property; computer or communications network
25 schema, passwords, and user identification names; guard schedules; lock
26 combinations; or public utility infrastructure specifications or design
27 drawings the public disclosure of which would create a substantial
28 likelihood of endangering public safety or property, unless otherwise
29 provided by state or federal law;

30 (9) The security standards, procedures, policies, plans,
31 specifications, diagrams, access lists, and other security-related

1 records of the Lottery Division of the Department of Revenue and those
2 persons or entities with which the division has entered into contractual
3 relationships. Nothing in this subdivision shall allow the division to
4 withhold from the public any information relating to amounts paid persons
5 or entities with which the division has entered into contractual
6 relationships, amounts of prizes paid, the name of the prize winner, and
7 the city, village, or county where the prize winner resides;

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

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

15 (12) Correspondence, memoranda, and records of telephone calls
16 related to the performance of duties by a member of the Legislature in
17 whatever form. The lawful custodian of the correspondence, memoranda, and
18 records of telephone calls, upon approval of the Executive Board of the
19 Legislative Council, shall release the correspondence, memoranda, and
20 records of telephone calls which are not designated as sensitive or
21 confidential in nature to any person performing an audit of the
22 Legislature. A member's correspondence, memoranda, and records of
23 confidential telephone calls related to the performance of his or her
24 legislative duties shall only be released to any other person with the
25 explicit approval of the member;

26 (13) Records or portions of records kept by public bodies which
27 would reveal the location, character, or ownership of any known
28 archaeological, historical, or paleontological site in Nebraska when
29 necessary to protect the site from a reasonably held fear of theft,
30 vandalism, or trespass. This section shall not apply to the release of
31 information for the purpose of scholarly research, examination by other

1 public bodies for the protection of the resource or by recognized tribes,
2 the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or
3 the federal Native American Graves Protection and Repatriation Act;

4 (14) Records or portions of records kept by public bodies which
5 maintain collections of archaeological, historical, or paleontological
6 significance which reveal the names and addresses of donors of such
7 articles of archaeological, historical, or paleontological significance
8 unless the donor approves disclosure, except as the records or portions
9 thereof may be needed to carry out the purposes of the Unmarked Human
10 Burial Sites and Skeletal Remains Protection Act or the federal Native
11 American Graves Protection and Repatriation Act;

12 (15) Job application materials submitted by applicants, other than
13 finalists or a priority candidate for a position described in section
14 85-106.06 selected using the enhanced public scrutiny process in section
15 85-106.06, who have applied for employment by any public body as defined
16 in section 84-1409. For purposes of this subdivision, (a) job application
17 materials means employment applications, resumes, reference letters, and
18 school transcripts and (b) finalist means any applicant who is not an
19 applicant for a position described in section 85-106.06 and (i) who
20 reaches the final pool of applicants, numbering four or more, from which
21 the successful applicant is to be selected, (ii) who is an original
22 applicant when the final pool of applicants numbers less than four, or
23 (iii) who is an original applicant and there are four or fewer original
24 applicants;

25 (16) Records obtained by the Public Employees Retirement Board
26 pursuant to section 84-1512;

27 (17) Social security numbers; credit card, charge card, or debit
28 card numbers and expiration dates; and financial account numbers supplied
29 to state and local governments by citizens;

30 (18) Information exchanged between a jurisdictional utility and city
31 pursuant to section 66-1867;

1 (19) Draft records obtained by the Nebraska Retirement Systems
2 Committee of the Legislature and the Governor from Nebraska Public
3 Employees Retirement Systems pursuant to subsection (4) of section
4 84-1503;~~and~~

5 (20) All prescription drug information submitted pursuant to section
6 71-2454, all data contained in the prescription drug monitoring system,
7 and any report obtained from data contained in the prescription drug
8 monitoring system; and -

9 (21) Audio and video recordings of the proceedings of the
10 Legislature or of a committee or division of the Legislature.

11 Sec. 3. Original section 84-712.05, Revised Statutes Cumulative
12 Supplement, 2016, is repealed.