


## R.R.S. Neb. § 84-712.05

Current currency: Code: Current through Acts of the 2nd Regular Session of the 108th Legislature (2024): LB 1, LB 16, LB 16A, LB 20, LB 20A, LB 43, LB 51, LB 52, LB 52A, LB 61, LB 62, LB 71A, LB 78, LB 83, LB 94, LB 102, LB 102A, LB 126A, LB 126, LB 130, LB 130A, LB 139e, LB 140, LB 140A, LB 144, LB 146, LB 147, LB 151, LB 152, LB 164, LB 164A, LB 184, LB 190, LB 196, LB 196A, LB 198e, LB 204, LB 204A, LB 247, LB 252, LB 257, LB 262A, LB 279, LB 287A, LB 299e, LB 303, LB 304, LB 308, LB 317, LB 358A, LB 399, LB 461, LB 484A, LB 569e, LB 600A, LB 605, LB 607, LB 624, LB 628, LB 631A, LB 644, LB 644A, LB 658A, LB 664, LB 686, LB 716, LB 731, LB 771e, LB 771Ae, LB 829A, LB 839e, LB 844, LB 847, LB 848, LB 851e, LB 854, LB 857, LB 857A, LB 867, LB 867A, LB 870A, LB 876A, LB 880, LB 894, LB 895, LB 903, LB 904A, LB 905, LB 905A, LB 906, LB 908, LB 909e, LB 926, LB 936, LB 937A, LB 938, LB 940, LB 989, LB 992e, LB 992A, LB 1004e, LB 1017, LB 1023A, LB 1027, LB 1030, LB 1031A, LB 1035A, LB 1051, LB 1069, LB 1074A, LB 1087, LB 1087A, LB 1088, LB 1102, LB 1104e, LB 1108, LB 1118, LB 1143, LB 1167, LB 1188e, LB 1195, LB 1200A, LB 1204A, LB 1214, LB 1215, LB 1270, LB 1284A, LB 1300A, LB 1301A, LB 1306A, LB 1313, LB 1317A, LB 1326, LB 1329A, LB 1344, LB 1344A, LB 1355A, LB 1368A, LB 1394, LB 1394A, LB 1402A, LB 1412, LB 1413; and 2024 ballot propositions.

*Revised Statutes of Nebraska Annotated > Chapter 84 State Officers (Arts. 1 — 16) > Article 7 General Provisions as to State Officers (§§ 84-701 — 84-733)*

### Notice

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 This section has more than one version with varying effective dates.

### **§ 84-712.05. Records which may be withheld from the public; enumerated.**

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

under section 44-2821; and patient safety work product under the Patient Safety Improvement Act;

(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, complaints or inquiries from residents of this state or other interested persons, 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:

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

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

(6) The identity and personal identifying information of an alleged victim of sexual assault or sex trafficking as provided in section 29-4316;

(7) 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;

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

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

(10) Information that relates details of physical and cyber assets of critical energy infrastructure or critical electric infrastructure, including (a) specific engineering, vulnerability,

or detailed design information about proposed or existing critical energy infrastructure or critical electric infrastructure that (i) relates details about the production, generation, transportation, transmission, or distribution of energy, (ii) could be useful to a person in planning an attack on such critical infrastructure, and (iii) does not simply give the general location of the critical infrastructure and (b) the identity of personnel whose primary job function makes such personnel responsible for (i) providing or granting individuals access to physical or cyber assets or (ii) operating and maintaining physical or cyber assets, if a reasonable person, knowledgeable of the electric utility or energy industry, would conclude that the public disclosure of such identity could create a substantial likelihood of risk to such physical or cyber assets. Subdivision (10)(b) of this section shall not apply to the identity of a chief executive officer, general manager, vice president, or board member of a public entity that manages critical energy infrastructure or critical electric infrastructure. The lawful custodian of the records must provide a detailed job description for any personnel whose identity is withheld pursuant to subdivision (10)(b) of this section. For purposes of subdivision (10) of this section, critical energy infrastructure and critical electric infrastructure mean existing and proposed systems and assets, including a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of such matters;

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

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

**(13)** 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;

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

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

recognized tribes, the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or the federal Native American Graves Protection and Repatriation Act;

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

**(17)** Library, archive, and museum materials acquired from nongovernmental entities and preserved solely for reference, research, or exhibition purposes, for the duration specified in subdivision (17)(b) of this section, if:

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

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

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

**(19)**

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

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

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

**(22)** Draft records obtained by the Nebraska Retirement Systems Committee of the Legislature and the Governor from Nebraska Public Employees Retirement Systems pursuant to subsection (4) of section 84-1503;

- (23)** All prescription drug information submitted pursuant to section 71-2454, all data contained in the prescription drug monitoring system, and any report obtained from data contained in the prescription drug monitoring system;
- (24)** Information obtained by any government entity, whether federal, state, county, or local, regarding firearm registration, possession, sale, or use that is obtained for purposes of an application permitted or required by law or contained in a permit or license issued by such entity. Such information shall be available upon request to any federal, state, county, or local law enforcement agency;
- (25)** The security standards, procedures, policies, plans, specifications, diagrams, and access lists and other security-related records of the State Racing and Gaming Commission, those persons or entities with which the commission has entered into contractual relationships, and the names of any individuals placed on the list of self-excluded persons with the commission as provided in section 9-1118. Nothing in this subdivision shall allow the commission to withhold from the public any information relating to the amount paid any person or entity with which the commission has entered into a contractual relationship, the amount of any prize paid, the name of the prize winner, and the city, village, or county where the prize winner resides; and
- (26)** Records relating to the nature, location, or function of cybersecurity by the State of Nebraska or any of its political subdivisions or any other public entity subject to sections 84-712 to 84-712.09, including, but not limited to, devices, programs, or systems designed to protect computer, information technology, or communications systems against terrorist or other attacks. The Nebraska Information Technology Commission shall adopt and promulgate rules and regulations to implement this subdivision.

## History

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Laws 1979, LB 86, § 5; Laws 1983, LB 108, § 1; Laws 1983, LB 565, § 1; Laws 1993, LB 579, § 6; Laws 1993, LB 590, § 6; Laws 1993, LB 719, § 2; Laws 1994, LB 1061, § 7; Laws 1994, LB 1224, § 88; Laws 1995, LB 343, § 7; Laws 1995, LB 509, § 6; Laws 1999, LB 137, § 1; Laws 2002, LB 276, § 7; Laws 2004, LB 236, § 1; Laws 2004, LB 868, § 3; Laws 2005, LB 361, § 37; Laws 2007, LB 389, § 1; Laws 2009, LB 188, § 8; Laws 2009, LB 658, § 7; Laws 2011, LB 230, § 1; Laws 2013, LB 410, § 17; 2016 LB 447, § 45, effective March 31, 2016, operative March 31, 2016; 2016 LB 471, § 3, effective February 25, 2016; 2016 LB 1109, § 1, effective July 21, 2016; 2018 LB 902, § 1, effective July 19, 2018; 2018 LB 859, § 1, effective July 19, 2018; 2019 LB 33, § 6, effective March 7, 2019; 2019 LB 16, § 1, effective September 1, 2019; 2019 LB 375, § 1, effective September 1, 2019; 2021 LB 147, § 44, effective May 27, 2021; 2022 LB 876, § 25, effective April 20, 2022; 2022 LB 1246, § 5, effective July 21, 2022; 2024 LB 43, § 11, effective March 28, 2024, operative March 28, 2024.