

AARON D. FORD
Attorney General

CRAIG A. NEWBY
First Assistant Attorney General

CHRISTINE JONES BRADY
Second Assistant Attorney General



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

1 State of Nevada Way, Suite 100
Las Vegas, Nevada 89119

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TERESA BENITEZ-
THOMPSON
Chief of Staff

LESLIE NINO PIRO
General Counsel

HEIDI PARRY STERN
Solicitor General

OPINION NO. 2024-03

BOULDER; CLERKS;
CONFIDENTIALITY; CITIES AND
TOWNS; COURTS; ELECTIONS; LOCAL
GOVERNMENT; PRIVACY AND
SECURITY; RECORDS; NRS 293.908
applies to all records of a city clerk that
contain personal information of a person
identified in NRS 293.908.

Brittany Walker, City Attorney
City Attorney's Office
City of Boulder City
401 California Ave.,
Boulder City, NV 89005

Dear Ms. Walker:

Pursuant to NRS 228.150, you have requested an opinion concerning the city records to which the provisions of NRS 293.908 apply.

You write that "NRS 293.126(2) limits the applicability of NRS Chapter 293 to city elections. Accordingly, I believe that NRS 293.908 is limited to records pertaining to city elections." You also write that under the Boulder City municipal code (BC Code 1-8-4), the Boulder City Clerk is charged with administering all city records, and "the statute does not specify only records pertaining to city elections."

QUESTION

Are the provisions of NRS 293.908 limited to records pertaining to city elections?

SHORT ANSWER

No. NRS 293.908 applies to all records of a city clerk that contain personal information of a person identified in NRS 293.908.

ANALYSIS

This question requires the analysis of NRS 293.126, 293.904, 293.906, and 293.908. When construing a statute, the Nevada Supreme Court first examines its plain meaning. *Davis v. Beling*, 128 Nev. 301, 311, 278 P.3d 501, 508 (2012). The Court reads its provisions as a whole and gives effect to each of its words and phrases. *Id.*

NRS 293.126 states:

1. The provisions of NRS 293.5772 to 293.5887,¹ inclusive, apply to city elections.
2. The other provisions of this chapter, not inconsistent with the provisions of chapter 293C of NRS or a city charter, *also* apply to city elections.

NRS 293.126 (emphasis added).

The plain language of NRS 293.126 does not limit the application of any part of Chapter 293 to city elections. Rather, it directs that the provisions of Chapter 293 “also” apply to city elections, in addition to other contexts.

Because the use of the conjunctive adverb “also”² expands the applicability of Chapter 293 to include city elections, there is no basis for using its language to limit the records referenced in NRS 293.908 to city election records alone. This construction is supported by the prior text of the provision and its legislative history.

NRS 293.126 was initially added to the Statutes of Nevada in 1997. It read “[t]he provisions of this chapter, not inconsistent with the provisions of sections 2 to 92, inclusive, of this act or a city charter, apply to city elections.”

¹ Sections NRS 293.5772 to 293.5887 concern voter registration.

² “Also” means in addition; too. *Cambridge Advanced Learner's Dictionary & Thesaurus*, Cambridge University Press, January 17, 2024, <https://dictionary.cambridge.org/us/dictionary/english/also>.

S.B. 447, 1997 Leg., 69th Sess. at 3447 (Nev. 1997).³ A 2019 amendment added subsection 1, and the words “other” and “also” to subsection 2 of the provision. A.B. 345, 2019 Leg., 80th Sess. at 4060 (Nev. 2019).⁴ This language is expansive, not limiting.

The legislative history further demonstrates that the legislative intent was to ensure consistency concerning voter registration laws, not to limit applicability of the provision to city election records. It provides in part as follows:

Under existing law and various city charters, the Legislature has provided that city elections are governed by Nevada’s elections laws, so far as those laws can be made applicable and are not inconsistent with the city charters. (NRS 293.126, 293C.110) To ensure statewide uniformity and consistency in the application of **sections 5.1-9.8** regarding voter registration, **sections . . . 15.5 . . .** of this bill amend existing law and the applicable city charters to provide that **sections 5.1-9.8** apply to city elections and supersede and preempt any conflicting provisions of the city charters.

A.B. 345, 2019 Leg., 80th Sess. at 40447 (Nev. 2019).⁵

This interpretation is further supported by the list of persons in NRS 293.908 who have no discernable tie to city elections but based on the plain language of the statute, may request that their information be kept confidential. Sections 293.902 (Confidential information), 293.904 (Personal information), 923.906 (Court order to request confidentiality of personal

³ <https://www.leg.state.nv.us/Statutes/69th/Stats199723.html#Stats199723page3447>

⁴ “**Sec. 15.5. NRS 293.126** is hereby amended to read as follows:
1. The provisions of sections 5.1 to 9.8, inclusive, of this act apply to city elections. A.B. 345, 2019 Leg., 80th Sess. at 4060 (Nev.2019),<https://www.leg.state.nv.us/Statutes/80th2019/Stats201923.html#Stats201923page4060>.
2. The *other* provisions of this chapter, not inconsistent with the provisions of chapter 293C of NRS or a city charter, *also* apply to city elections.”

⁵ https://www.leg.state.nv.us/Statutes/80th2019/Stats201923.html#Stats201923_CH619

information) and 293.908 (Persons who may request information be kept confidential) of the Nevada Revised Statutes were added to the Statutes of Nevada at the same time. S.B. 79, 2017 Leg., 79th Sess. at 1556 (Nev. 2017).⁶

Pursuant to NRS 293.906, “any person listed in NRS 293.908 who wishes to have personal information about himself or herself that is contained in the records of the Secretary of State or a county or city clerk be kept confidential must obtain an order of a court that requires the Secretary of State or the county clerk or city clerk to maintain the personal information of the person in a confidential manner.” NRS 293.906(1). “Confidential information’ means personal information deemed confidential pursuant to NRS 293.906.” NRS 293.902. Personal information is defined as “[t]he home address of the person; [] [t]he home address of the spouse, domestic partner or minor child of a person; and [] [a]ny telephone number or electronic mail address of a person.” NRS 293.904.

Among the original list of persons who could request that their information be kept confidential were court-appointed masters. S.B. 79, Sec. 22, 2017 Leg., 79th Sess. at 1556 (Nev. 2017). A court-appointed master would not have city election related records pertaining to his or her position. Notwithstanding that fact, they were included as part of the group of persons who may request that personal information be kept confidential. *See* NRS 293.908(1)(c).

Section NRS 293.908 was subsequently amended several times to add additional persons also with no discernable tie to city elections. Among those added were “any person, including without limitation, a *social worker*, employed by this State . . . who as part of his or her normal job responsibilities: (1) interact with the public; and (2) perform tasks related to child welfare services . . .” A.B. 362, Sec. 3, 2019 Leg., 80th Sess. at 867-868 (Nev. 2019)(emphasis added).⁷ Similarly, “[a]ny person employed by the Office of the Attorney General who prosecutes or defends actions on behalf of the State of Nevada or any agency in the Executive Department of the State Government” may request that their information be kept confidential. S.B. 46, Sec. 3, 2021 Leg., 81st Sess. at 667 (Nev. 2021).⁸ Interpreting NRS 293.908 as only applying

⁶ <https://www.leg.state.nv.us/Statutes/79th2017/Stats201709.html#Stats201709page1556>

⁷ <https://www.leg.state.nv.us/Statutes/80th2019/Stats201905.html#Stats201905page867>

⁸ <https://www.leg.state.nv.us/Statutes/81st2021/Stats202106.html#Stats202106page667>

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to city election records would render its protections a nullity for some of the persons listed in its provision.

CONCLUSION

NRS 293.908 should be construed as applying to all city records that contain personal information of the persons identified in its provision. If your office receives a court order pursuant to NRS 293.906 that identifies a person listed in NRS 293.908, then his or her personal information should be kept confidential in any of the city records maintained by the City Clerk.

AARON D. FORD
Attorney General

By: *Sabrina Clinton*
SABRENA K. CLINTON
Deputy Attorney General