

Committee Action:  
Do Pass \_\_\_\_\_  
Amend & Do Pass \_\_\_\_\_  
Other \_\_\_\_\_

---

---

**Assembly Committee on Judiciary**

This measure may be considered for action during today's work session.

**ASSEMBLY BILL 101**

**Revises provisions relating to informants. (BDR 14-228)**

**Sponsored By:** Assemblywoman González  
**Date Heard:** March 1, 2023  
**Fiscal Notes:** Effect on Local Government: May have Fiscal Impact.  
Effect on the State: No.

This bill provides that the office of a prosecuting attorney must maintain complete and systematic records of any case prosecuted by the office in which testimony or information was provided by an informant pursuant to a cooperation agreement. If a prosecuting attorney intends to use an informant's testimony or information at a hearing or trial, certain information or material must be disclosed to the defense as soon as possible, but not later than 30 days before the hearing or trial. The court may order the disclosures to only be made to the attorney for the defendant, and not to the defendant or any other party, if making the disclosures may result in substantial bodily harm to the informant. Lastly, a court is required to instruct the jury to consider certain information in assessing the credibility of an informant.

**Amendments:** There is one amendment proposed by Nathaniel Erb, Policy Advocate, Innocence Project, which proposes the following:

- Amend Section 4 to clarify the definition of a cooperation agreement to include a person who was in jail or prison;
- Amend Section 5 to clarify the definition of an informant;
- Amend Section 6 to revise the records that must be maintained by the office of the prosecuting attorney; and
- Amend Section 7 to clarify what information the prosecutor must file and serve if the prosecutor intends to use testimony from the informant.

**Section 1.** Chapter 178 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Benefit” means:*

- 1. A plea bargain;*
- 2. Any consideration of bail or conditions of release;*
- 3. A reduction or modification of a term of sentence; or*
- 4. Any other leniency, immunity, financial payment, rewards or amelioration of the current or future conditions of any term of sentence.*

**Sec. 4.** *“Cooperation agreement” means a written agreement:*

- 1. Between a person who is or was in jail or prison and the office of a prosecuting attorney wherein the person agrees to be an informant; and*
- 2. Which includes, without limitation, a summary of:  
(a) The testimony or information to be provided by the informant; and  
(b) The benefit which has been or may be provided to the informant in exchange for the testimony or information described in paragraph (a).*

**Sec. 5.** *“Informant” means a person who:*

- 1. Provides testimony ~~or information~~ on behalf of the State based on any statement made by a defendant while the defendant and the person were in jail or prison; and*
- 2. ~~Requested,~~ Has received or ~~may will~~ receive a benefit in connection with the provision of the testimony ~~or information~~ described in subsection 1.*

**Sec. 6. 1.** *Every office of a prosecuting attorney shall maintain complete and systematic records of any case prosecuted by the office in which testimony or information is provided by an informant pursuant to a cooperation agreement. The records must include, without limitation:*

- (a) The substance of the testimony or information;*
- (b) Any benefit that has been ~~requested by, offered or provided to~~ or will may be provided to the informant in connection with the provision of the testimony or information; and*
- (c) A copy of the cooperation agreement.*

**2.** *The records described in subsection 1 are confidential and are not public books or records within the meaning of NRS 239.010.*

**Sec. 7. 1.** *Except as otherwise provided in subsections 2 and 3, if a prosecuting attorney intends to use testimony ~~or information~~ provided by an informant at a hearing or trial, the prosecuting attorney shall file and serve upon the defendant the following information or material as soon as practicable possible, but not later than 30 days before ~~the hearing or~~ trial:*

- (a) A summary of the criminal history of the informant, including, without limitation:  
(1) Any pending charges against the informant; and  
(2) Any charge against the informant that was reduced or dismissed, or will be reduced or dismissed in exchange for testimony to be provided as part of a plea bargain;*
- (b) A copy of The substance of any cooperation agreement;*
- (c) Any benefit that has been ~~requested by, offered or provided to~~ or or will be provided to the informant in connection with his or her provision of the testimony;*

*(d) The substance and, if known, the time and place of:*

*(1) Any statement that is relevant to the hearing or trial made by the defendant to the informant; and*

*(2) Any statement implicating the defendant in the charged offense made by the informant to a law enforcement officer;*

*(e) Any occasion on which the informant recanted his or her testimony to be provided, including, without limitation:*

*(1) The time and place of the recantation;*

*(2) The nature of the recantation; and*

*(3) The name of any person who was present at the time of the recantation; and*

*(f) Any other case known to the prosecuting attorney in which the informant:*

*(1) Provided testimony and the benefit offered or provided in each case; or*

*~~(2) Offered to provide testimony in exchange for a benefit but did not testify in the case.~~*

*2. A court may, upon good cause shown, implement a revised deadline for making the disclosures described in subsection 1 or, upon its own motion, continue the hearing or trial described in subsection 1, if:*

*(a) The informant was not known to the prosecuting attorney until after the deadline for making the disclosures described in subsection 1; and*

*(b) The information and materials described in subsection 1 could not have been discovered or obtained by the prosecuting attorney with the exercise of due diligence before the deadline for making the disclosures described in subsection 1.*

*3. If a court finds that disclosing the information and materials described in subsection 1 will result in the possibility of substantial bodily harm to the informant, the court may require the information and materials to be viewed exclusively by the attorney for the defendant, and not by the defendant or any other party.*

*4. In every trial in which a prosecuting attorney uses testimony ~~or information~~ provided by an informant, the court shall instruct the jury to consider the information described in paragraphs (a)~~(e)~~ to (f), inclusive, of subsection 1 in assessing the credibility of the informant.*