

ASSEMBLY BILL NO. 101—ASSEMBLYWOMAN GONZÁLEZ

PREFILED FEBRUARY 1, 2023

Referred to Committee on Judiciary

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

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to criminal procedure; requiring each office of a prosecuting attorney to maintain certain records relating to certain informants; requiring a prosecuting attorney to make certain disclosures to the defendant relating to informants; requiring a court to instruct jurors to consider certain information relating to informants; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law imposes a duty upon a prosecuting attorney and a defendant to disclose certain information before and during a trial, including, without limitation, information relating to witnesses and evidence. (NRS 174.233-174.295) **Section 7** of this bill provides that if a prosecuting attorney intends to use testimony provided by an informant in a trial, the prosecuting attorney is required to disclose the following information or materials to the defendant: (1) a summary of the criminal history of the informant; (2) a copy of any cooperation agreement; (3) any benefit that has been or will be provided to the informant in exchange for his or her testimony; (4) the substance and, if known, the time and place of any statement made by the defendant to the informant that is relevant to the trial and any statement implicating the defendant that was made by the informant to a law enforcement officer; (5) details relating to any occasion on which the informant recanted his or her testimony; and (6) any other case known to the prosecuting attorney in which the informant testified in exchange for a benefit and the benefit offered or provided. **Section 7** requires such disclosures to be made as soon as is practicable before a trial, but not later than 30 days before the trial, unless the court revises the deadline for making the disclosures or the court continues the trial.

**Section 7** also provides that if a court finds that making the disclosures may result in substantial bodily harm to the informant, 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. Finally, **section 7** requires a court to instruct the jury to consider certain information in assessing the credibility of an informant.



23 **Section 6** of this bill requires each office of a prosecuting attorney to maintain  
24 complete and systematic records of cases prosecuted by the office in which  
25 testimony is provided by an informant pursuant to a cooperation agreement.  
26 **Sections 6 and 8** of this bill provide that such records are confidential and not  
27 considered public books or records.  
28 **Sections 3-5** of this bill define the terms "benefit," "cooperation agreement"  
29 and "informant," respectively, for the purposes of this bill. **Section 2** of this bill  
30 makes a conforming change related to the definitions.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

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

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

8 **Sec. 3.** *"Benefit" means:*

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

15 **Sec. 4.** *"Cooperation agreement" means a written*  
16 *agreement:*

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

25 **Sec. 5.** *"Informant" means a person who:*

- 26 1. *Provides testimony on behalf of the State based on any*  
27 *statement made by a defendant while the defendant and the person*  
28 *were in jail or prison; and*
- 29 2. *Has received or will receive a benefit in connection with*  
30 *the provision of the testimony described in subsection 1.*

31 **Sec. 6.** 1. *Every office of a prosecuting attorney shall*  
32 *maintain complete and systematic records of any case prosecuted*  
33 *by the office in which testimony is provided by an informant*



1 *pursuant to a cooperation agreement. The records must include,*  
2 *without limitation:*

3 *(a) The substance of the testimony;*

4 *(b) Any benefit that has been or will be provided to the*  
5 *informant in connection with the provision of the testimony; and*

6 *(c) A copy of the cooperation agreement.*

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

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

15 *(a) A summary of the criminal history of the informant,*  
16 *including, without limitation:*

17 *(1) Any pending charges against the informant; and*

18 *(2) Any charge against the informant that was reduced or*  
19 *dismissed, or will be reduced or dismissed, in exchange for the*  
20 *testimony to be provided as part of a plea bargain;*

21 *(b) A copy of any cooperation agreement;*

22 *(c) Any benefit that has been or will be provided to the*  
23 *informant in connection with his or her provision of the*  
24 *testimony;*

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

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

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

30 *(e) Any occasion on which the informant recanted his or her*  
31 *testimony that will be provided by the informant at the trial,*  
32 *including, without limitation:*

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

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

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

37 *(f) Any other case known to the prosecuting attorney in which*  
38 *the informant provided testimony and the benefit offered or*  
39 *provided in each case.*

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



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

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

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

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

19 **Sec. 8.** NRS 239.010 is hereby amended to read as follows:

20 239.010 1. Except as otherwise provided in this section and  
21 NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095,  
22 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030,  
23 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152,  
24 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413,  
25 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345,  
26 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270,  
27 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280,  
28 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.640,  
29 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730,  
30 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312,  
31 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.015,  
32 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,  
33 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771,  
34 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392,  
35 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140,  
36 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,  
37 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240,  
38 218G.350, 224.240, 226.300, 228.270, 228.450, 228.495, 228.570,  
39 231.069, 231.1473, 232.1369, 233.190, 237.300, 239.0105,  
40 239.0113, 239.014, 239B.026, 239B.030, 239B.040, 239B.050,  
41 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420,  
42 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335,  
43 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150,  
44 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195,  
45 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755,



1 281A.780, 284.4068, 284.4086, 286.110, 286.118, 287.0438,  
2 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503,  
3 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910,  
4 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335,  
5 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420,  
6 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,  
7 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242,  
8 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080,  
9 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830,  
10 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503,  
11 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035,  
12 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271,  
13 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045,  
14 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465,  
15 396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525,  
16 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888,  
17 408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305,  
18 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028,  
19 432.205, 432B.175, 432B.280, 432B.290, 432B.4018, 432B.407,  
20 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534,  
21 433A.360, 439.4941, 439.4988, 439.840, 439.914, 439A.116,  
22 439A.124, 439B.420, 439B.754, 439B.760, 439B.845, 440.170,  
23 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735,  
24 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209,  
25 449.245, 449.4315, 449A.112, 450.140, 450B.188, 450B.805,  
26 453.164, 453.720, 458.055, 458.280, 459.050, 459.3866, 459.555,  
27 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,  
28 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940,  
29 481.063, 481.091, 481.093, 482.170, 482.368, 482.5536, 483.340,  
30 483.363, 483.575, 483.659, 483.800, 484A.469, 484B.830,  
31 484B.833, 484E.070, 485.316, 501.344, 503.452, 522.040,  
32 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098,  
33 598A.110, 598A.420, 599B.090, 603.070, 603A.210, 604A.303,  
34 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,  
35 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110,  
36 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230,  
37 628B.760, 629.047, 629.069, 630.133, 630.2671, 630.2672,  
38 630.2673, 630.30665, 630.336, 630A.327, 630A.555, 631.332,  
39 631.368, 632.121, 632.125, 632.3415, 632.3423, 632.405, 633.283,  
40 633.301, 633.4715, 633.4716, 633.4717, 633.524, 634.055,  
41 634.1303, 634.214, 634A.169, 634A.185, 635.111, 635.158,  
42 636.262, 636.342, 637.085, 637.145, 637B.192, 637B.288, 638.087,  
43 638.089, 639.183, 639.2485, 639.570, 640.075, 640.152, 640A.185,  
44 640A.220, 640B.405, 640B.730, 640C.580, 640C.600, 640C.620,  
45 640C.745, 640C.760, 640D.135, 640D.190, 640E.225, 640E.340,



1 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217,  
2 641A.262, 641B.170, 641B.281, 641B.282, 641C.455, 641C.760,  
3 641D.260, 641D.320, 642.524, 643.189, 644A.870, 645.180,  
4 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,  
5 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,  
6 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126,  
7 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130,  
8 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480,  
9 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710,  
10 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190,  
11 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410,  
12 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306,  
13 687A.060, 687A.115, 687B.404, 687C.010, 688C.230, 688C.480,  
14 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536,  
15 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550,  
16 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159,  
17 711.600, *and section 6 of this act*, sections 35, 38 and 41 of chapter  
18 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes  
19 of Nevada 2013 and unless otherwise declared by law to be  
20 confidential, all public books and public records of a governmental  
21 entity must be open at all times during office hours to inspection by  
22 any person, and may be fully copied or an abstract or memorandum  
23 may be prepared from those public books and public records. Any  
24 such copies, abstracts or memoranda may be used to supply the  
25 general public with copies, abstracts or memoranda of the records or  
26 may be used in any other way to the advantage of the governmental  
27 entity or of the general public. This section does not supersede or in  
28 any manner affect the federal laws governing copyrights or enlarge,  
29 diminish or affect in any other manner the rights of a person in any  
30 written book or record which is copyrighted pursuant to federal law.

31 2. A governmental entity may not reject a book or record  
32 which is copyrighted solely because it is copyrighted.

33 3. A governmental entity that has legal custody or control of a  
34 public book or record shall not deny a request made pursuant to  
35 subsection 1 to inspect or copy or receive a copy of a public book or  
36 record on the basis that the requested public book or record contains  
37 information that is confidential if the governmental entity can  
38 redact, delete, conceal or separate, including, without limitation,  
39 electronically, the confidential information from the information  
40 included in the public book or record that is not otherwise  
41 confidential.

42 4. If requested, a governmental entity shall provide a copy of a  
43 public record in an electronic format by means of an electronic  
44 medium. Nothing in this subsection requires a governmental entity



1 to provide a copy of a public record in an electronic format or by  
2 means of an electronic medium if:

3 (a) The public record:

4 (1) Was not created or prepared in an electronic format; and

5 (2) Is not available in an electronic format; or

6 (b) Providing the public record in an electronic format or by  
7 means of an electronic medium would:

8 (1) Give access to proprietary software; or

9 (2) Require the production of information that is confidential  
10 and that cannot be redacted, deleted, concealed or separated from  
11 information that is not otherwise confidential.

12 5. An officer, employee or agent of a governmental entity who  
13 has legal custody or control of a public record:

14 (a) Shall not refuse to provide a copy of that public record in the  
15 medium that is requested because the officer, employee or agent has  
16 already prepared or would prefer to provide the copy in a different  
17 medium.

18 (b) Except as otherwise provided in NRS 239.030, shall, upon  
19 request, prepare the copy of the public record and shall not require  
20 the person who has requested the copy to prepare the copy himself  
21 or herself.

