

Amendment No. 21

Assembly Amendment to Assembly Bill No. 101	(BDR 14-228)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



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 ~~hearing or~~ 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 ~~for information~~ provided by an informant in a ~~hearing or~~ 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 ~~requested by, offered or provided to~~ or ~~may~~ **will** be provided to the informant in exchange for his or her testimony; ~~for information;~~ (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 ~~hearing or~~ 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. ~~for the informant offered to provide testimony in exchange for a benefit but did not testify in the case.~~ **Section 7** requires such disclosures to be made **as soon as is practicable before a trial, but** not later than 30 days before the ~~hearing or~~ trial, unless the court revises the deadline for making the disclosures or the court continues the ~~hearing or~~ 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.

Section 6 of this bill requires each office of a prosecuting attorney to maintain complete and systematic records of cases prosecuted by the office in which testimony ~~for information~~ is provided by an informant pursuant to a cooperation agreement. **Sections 6 and 8** of this bill provide that such records are confidential and not considered public books or records.

28 **Sections 3-5** of this bill define the terms “benefit,” “cooperation agreement” and
 29 “informant,” respectively, for the purposes of this bill. **Section 2** of this bill makes a
 30 conforming change related to the definitions.

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 thereto the
 2 provisions set forth as sections 2 to 7, inclusive, of this act.

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

6 **Sec. 3.** “Benefit” means:

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

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

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

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

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

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

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

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

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

41 (a) A summary of the criminal history of the informant, including, without
 42 limitation:

- 43 (1) Any pending charges against the informant; and

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

4 (b) A copy of any cooperation agreement;

5 (c) Any benefit that has been ~~requested by, offered or provided to~~ or ~~may~~
6 will be provided to the informant in connection with his or her provision of the
7 testimony;

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

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

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

13 (e) Any occasion on which the informant recanted his or her testimony ~~if~~
14 that will be provided by the informant at the trial, including, without limitation:

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

16 (2) The nature of the recantation; and

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

19 (f) Any other case known to the prosecuting attorney in which the informant
20 ~~is~~

21 ~~— (1) Provided~~ provided testimony and the benefit offered or provided in
22 each case. ~~is or~~

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

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

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

30 (b) The information and materials described in subsection 1 could not have
31 been discovered or obtained by the prosecuting attorney with the exercise of due
32 diligence before the deadline for making the disclosures described in subsection
33 1.

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

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

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

44 239.010 1. Except as otherwise provided in this section and NRS 1.4683,
45 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095, 49.293, 62D.420, 62D.440,
46 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100,
47 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515,
48 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345,
49 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880,
50 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677,
51 119B.370, 119B.382, 120A.640, 120A.690, 125.130, 125B.140, 126.141, 126.161,
52 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090,
53 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.015,

1 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691,
2 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604,
3 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521,
4 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
5 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350,
6 224.240, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473,
7 232.1369, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.026, 239B.030,
8 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270,
9 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335,
10 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095,
11 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350,
12 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 284.4086,
13 286.110, 286.118, 287.048, 289.025, 289.080, 289.387, 289.830, 293.4855,
14 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908,
15 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335,
16 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775,
17 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
18 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180, 370.257,
19 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830,
20 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513,
21 388.750, 388A.247, 388A.249, 391.033, 391.035, 391.0365, 391.120, 391.925,
22 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335,
23 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465,
24 396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525, 396.535,
25 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280,
26 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872,
27 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.4018, 432B.407,
28 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534, 433A.360,
29 439.4941, 439.4988, 439.840, 439.914, 439A.116, 439A.124, 439B.420, 439B.754,
30 439B.760, 439B.845, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,
31 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209, 449.245,
32 449.4315, 449A.112, 450.140, 450B.188, 450B.805, 453.164, 453.720, 458.055,
33 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
34 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935,
35 480.940, 481.063, 481.091, 481.093, 482.170, 482.368, 482.5536, 483.340,
36 483.363, 483.575, 483.659, 483.800, 484A.469, 484B.830, 484B.833, 484E.070,
37 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655,
38 587.877, 598.0964, 598.098, 598A.110, 598A.420, 599B.090, 603.070, 603A.210,
39 604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
40 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265,
41 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,
42 630.133, 630.2671, 630.2672, 630.2673, 630.30665, 630.336, 630A.327,
43 630A.555, 631.332, 631.368, 632.121, 632.125, 632.3415, 632.3423, 632.405,
44 633.283, 633.301, 633.4715, 633.4716, 633.4717, 633.524, 634.055, 634.1303,
45 634.214, 634A.169, 634A.185, 635.111, 635.158, 636.262, 636.342, 637.085,
46 637.145, 637B.192, 637B.288, 638.087, 638.089, 639.183, 639.2485, 639.570,
47 640.075, 640.152, 640A.185, 640A.220, 640B.405, 640B.730, 640C.580,
48 640C.600, 640C.620, 640C.745, 640C.760, 640D.135, 640D.190, 640E.225,
49 640E.340, 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217, 641A.262,
50 641B.170, 641B.281, 641B.282, 641C.455, 641C.760, 641D.260, 641D.320,
51 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060,
52 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320,
53 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126,

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

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

24 3. A governmental entity that has legal custody or control of a public book or
25 record shall not deny a request made pursuant to subsection 1 to inspect or copy or
26 receive a copy of a public book or record on the basis that the requested public
27 book or record contains information that is confidential if the governmental entity
28 can redact, delete, conceal or separate, including, without limitation, electronically,
29 the confidential information from the information included in the public book or
30 record that is not otherwise confidential.

31 4. If requested, a governmental entity shall provide a copy of a public record
32 in an electronic format by means of an electronic medium. Nothing in this
33 subsection requires a governmental entity to provide a copy of a public record in an
34 electronic format or by means of an electronic medium if:

35 (a) The public record:

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

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

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

40 (1) Give access to proprietary software; or

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

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

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

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