

ASSEMBLY BILL NO. 297—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF SHERIFFS AND CHIEFS ASSOCIATION)

FEBRUARY 22, 1999

Referred to Committee on Government Affairs

SUMMARY—Requires employer or former employer of applicant for position as peace officer with law enforcement agency to make certain information regarding applicant available to law enforcement agency under certain circumstances. (BDR 19-546)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: 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 employment; requiring an employer or former employer of a person who is an applicant for a position as a peace officer with a law enforcement agency to provide certain information regarding the applicant to the law enforcement agency under certain circumstances; authorizing a law enforcement agency to bring an action to compel the provision of such information; providing immunity from civil liability in certain circumstances for an employer or former employer that provides such information; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 239B of NRS is hereby amended by adding
2 thereto a new section to read as follows:
3 ***1. Upon the request of a law enforcement agency, an employer shall***
4 ***provide to the law enforcement agency information regarding a current***
5 ***or former employee of the employer who is an applicant for the position***
6 ***of peace officer with the law enforcement agency. A request for***
7 ***information by a law enforcement agency pursuant to this subsection***
8 ***must be:***
9 ***(a) In writing;***

1 (b) Accompanied by an authorization signed by the applicant and
2 notarized by a notary public or judicial officer in which the applicant
3 consents to the release of the information; and

4 (c) Presented to the employer by a sworn officer or other authorized
5 representative of the law enforcement agency.

6 2. The information that a law enforcement agency may request
7 pursuant to subsection 1 includes, without limitation:

8 (a) The date on which the applicant began his employment and, if
9 applicable, the date on which the employment of the applicant was
10 terminated;

11 (b) A list of the compensation that the employer provided to the
12 applicant during the course of the employment;

13 (c) An application for a position of employment that the applicant
14 submitted to the employer;

15 (d) A written evaluation of the performance of the applicant;

16 (e) A record of the attendance of the applicant;

17 (f) A record of disciplinary action taken against the applicant;

18 (g) A statement regarding whether the employer would rehire the
19 applicant and, if the employer would not rehire the applicant, the reasons
20 therefor; and

21 (h) If applicable, a record setting forth the reason that the
22 employment of the applicant was terminated and whether the termination
23 was voluntary or involuntary.

24 3. An employer shall not provide information pursuant to subsection
25 1 if the disclosure of the information is prohibited pursuant to a federal
26 or state statute or regulation.

27 4. A law enforcement agency may use the information that it receives
28 pursuant to this section only to determine the suitability of an applicant
29 for employment as a peace officer.

30 5. If an employer refuses to provide information to a law
31 enforcement agency pursuant to this section, the law enforcement agency
32 may bring an action in a court of competent jurisdiction to compel the
33 employer to provide the information.

34 6. Except as otherwise provided in this subsection, a law enforcement
35 agency shall maintain the confidentiality of information that it receives
36 pursuant to this section. A law enforcement agency may share
37 information regarding an applicant that it receives pursuant to this
38 section with another law enforcement agency if:

39 (a) The applicant is also an applicant for a position as a peace officer
40 with the other law enforcement agency; and

41 (b) The confidentiality of the information is otherwise maintained.

42 7. As used in this section:

43 (a) "Employer" includes a public employer and a private employer.

1 **(b) “Law enforcement agency” has the meaning ascribed to it in NRS**
2 **277.035.**

3 **(c) “Peace officer” has the meaning ascribed to it in NRS 289.010.**

4 **Sec. 2.** NRS 41.755 is hereby amended to read as follows:

5 41.755 1. Except as otherwise provided in subsection ~~2~~ 3, an
6 employer who, at the request of an employee, discloses information
7 regarding:

8 (a) The ability of the employee to perform his job;

9 (b) The diligence, skill or reliability with which the employee carried
10 out the duties of his job; or

11 (c) An illegal or wrongful act committed by the employee,
12 to a prospective employer of that employee is immune from civil liability
13 for such disclosure and its consequences.

14 2. ***Except as otherwise provided in subsection 3, an employer who***
15 ***discloses information regarding an employee to a law enforcement***
16 ***agency pursuant to section 1 of this act is immune from civil liability for***
17 ***such disclosure and its consequences.***

18 3. An employer is not immune from civil liability for a disclosure
19 made pursuant to subsection 1 ***or section 1 of this act*** or for the
20 consequences of a disclosure made pursuant to subsection 1 ***or section 1 of***
21 ***this act*** if the employer:

22 (a) Acted with malice or ill will;

23 (b) Disclosed information that he believed was inaccurate;

24 (c) Disclosed information which he had no reasonable grounds for
25 believing was accurate;

26 (d) Recklessly or intentionally disclosed inaccurate information;

27 (e) Deliberately disclosed misleading information; or

28 (f) Disclosed information in violation of a state or federal law or in
29 violation of an agreement with the employee.

30 ~~3~~ 4. As used in this section:

31 (a) “Employee” means a person who currently renders or previously
32 rendered time and services to an employer.

33 (b) “Employer” includes an employee or agent of an employer who is
34 authorized by the employer to disclose information regarding an employee.

35 **Sec. 3.** This act becomes effective upon passage and approval.