

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; 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 thereto
2 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, if available,***
5 ***regarding a current or former employee of the employer who is an***
6 ***applicant for the position of peace officer with the law enforcement***
7 ***agency. A request for information by a law enforcement agency pursuant***
8 ***to this subsection must be:***
9 ***(a) In writing;***
10 ***(b) Accompanied by an authorization signed by the applicant and***
11 ***notarized by a notary public or judicial officer in which the applicant***
12 ***consents to the release of the information; and***

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

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

5 (a) The date on which the applicant began his employment and, if
6 applicable, the date on which the employment of the applicant was
7 terminated;

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

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

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

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

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

15 (g) A statement regarding whether the employer would rehire the
16 applicant and, if the employer would not rehire the applicant, the reasons
17 therefor; and

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

21 3. An employer shall not provide information pursuant to subsection
22 1 if the disclosure of the information is prohibited pursuant to a federal
23 or state statute or regulation.

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

27 5. Except as otherwise provided in this subsection, a law enforcement
28 agency shall maintain the confidentiality of information that it receives
29 pursuant to this section. A law enforcement agency may share
30 information regarding an applicant that it receives pursuant to this
31 section with another law enforcement agency if:

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

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

35 6. As used in this section:

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

37 (b) "Law enforcement agency" has the meaning ascribed to it in NRS
38 277.035.

39 (c) "Peace officer" has the meaning ascribed to it in NRS 289.010.

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

41 41.755 1. Except as otherwise provided in subsection ~~2.~~ 3, an
42 employer who, at the request of an employee, discloses information
43 regarding:

- 1 (a) The ability of the employee to perform his job;
- 2 (b) The diligence, skill or reliability with which the employee carried
- 3 out the duties of his job; or
- 4 (c) An illegal or wrongful act committed by the employee,
- 5 to a prospective employer of that employee is immune from civil liability
- 6 for such disclosure and its consequences.

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

11 3. An employer is not immune from civil liability for a disclosure made
12 pursuant to subsection 1 *or section 1 of this act* or for the consequences of
13 a disclosure made pursuant to subsection 1 *or section 1 of this act* if the
14 employer:

- 15 (a) Acted with malice or ill will;
- 16 (b) Disclosed information that he believed was inaccurate;
- 17 (c) Disclosed information which he had no reasonable grounds for
- 18 believing was accurate;
- 19 (d) Recklessly or intentionally disclosed inaccurate information;
- 20 (e) Deliberately disclosed misleading information; or
- 21 (f) Disclosed information in violation of a state or federal law or in
- 22 violation of an agreement with the employee.

23 ~~13.1~~ 4. As used in this section:

- 24 (a) "Employee" means a person who currently renders or previously
- 25 rendered time and services to an employer.
- 26 (b) "Employer" includes an employee or agent of an employer who is
- 27 authorized by the employer to disclose information regarding an employee.

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