

ASSEMBLY BILL NO. 112—COMMITTEE ON JUDICIARY

(ON BEHALF OF NEVADA SHERIFFS AND CHIEFS ASSOCIATION)

FEBRUARY 12, 2001

Referred to Committee on Judiciary

SUMMARY—Permits law enforcement agencies to review certain criminal records to determine suitability of applicant for employment as peace officer. (BDR 14-423)

FISCAL NOTE: Effect on Local Government: No.
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 records; permitting law enforcement agencies to review certain criminal records to determine the suitability of an applicant for employment as a peace officer; 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.** NRS 179.301 is hereby amended to read as follows:
2 179.301 1. The state gaming control board and Nevada gaming
3 commission and their employees, agents and representatives may inquire
4 into and inspect any records sealed pursuant to NRS 179.245 or 179.255, if
5 the event or conviction was related to gaming, for purposes of determining
6 the suitability or qualifications of any person to hold a state gaming
7 license, manufacturer's, seller's or distributor's license or gaming work
8 permit pursuant to chapter 463 of NRS. Events and convictions, if any,
9 which are the subject of an order sealing records may form the basis for
10 recommendation, denial or revocation of those licenses or work permits.
11 2. *Law enforcement agencies and their employees, agents and*
12 *representatives may inquire into and inspect any records sealed pursuant*
13 *to NRS 179.245 or 179.255 for the purpose of determining the suitability*
14 *of an applicant for employment as a peace officer. Events and*
15 *convictions, if any, which are the subject of an order sealing records may*
16 *form the basis for denial of employment with a law enforcement agency.*
17 3. The central repository and its employees may inquire into and
18 inspect any records sealed pursuant to NRS 179.245 or 179.255 that
19 constitute information relating to sexual offenses, and may notify



1 employers of the information in accordance with NRS 179A.190 to
2 179A.240, inclusive.

3 ~~3-1~~ 4. Records which have been sealed pursuant to NRS 179.245 or
4 179.255 and which are retained in the statewide registry established
5 pursuant to NRS 179B.200 may be inspected pursuant to chapter 179B of
6 NRS by an officer or employee of the central repository or a law
7 enforcement officer in the regular course of his duties.

8 **Sec. 2.** NRS 453.3363 is hereby amended to read as follows:

9 453.3363 1. If a person who has not previously been convicted of
10 any offense pursuant to NRS 453.011 to 453.552, inclusive, or pursuant to
11 any statute of the United States or of any state relating to narcotic drugs,
12 marijuana, or stimulant, depressant or hallucinogenic substances tenders a
13 plea of guilty, guilty but mentally ill, nolo contendere or similar plea to a
14 charge pursuant to NRS 453.336, 453.411 or 454.351, or is found guilty of
15 one of those charges, the court, without entering a judgment of conviction
16 and with the consent of the accused, may suspend further proceedings and
17 place him on probation upon terms and conditions that must include
18 attendance and successful completion of an educational program or, in the
19 case of a person dependent upon drugs, of a program of treatment and
20 rehabilitation pursuant to NRS 453.580.

21 2. Upon violation of a term or condition, the court may enter a
22 judgment of conviction and proceed as provided in the section pursuant to
23 which the accused was charged. Notwithstanding the provisions of
24 paragraph (e) of subsection 2 of NRS 193.130, upon violation of a term or
25 condition, the court may order the person to the custody of the department
26 of prisons.

27 3. Upon fulfillment of the terms and conditions, the court shall
28 discharge the accused and dismiss the proceedings against him. A
29 nonpublic record of the dismissal must be transmitted to and retained by
30 the division of parole and probation of the department of motor vehicles
31 and public safety solely for the use of the courts in determining whether, in
32 later proceedings, the person qualifies under this section.

33 4. Except as otherwise provided in ~~subsection 5-1~~ **subsections 5 and 6**,
34 discharge and dismissal under this section is without adjudication of guilt
35 and is not a conviction for purposes of this section or for purposes of
36 employment, civil rights or any statute or regulation or license or
37 questionnaire or for any other public or private purpose, but is a conviction
38 for the purpose of additional penalties imposed for second or subsequent
39 convictions or the setting of bail. Discharge and dismissal restores the
40 person discharged, in the contemplation of the law, to the status occupied
41 before the arrest, indictment or information. He may not be held thereafter
42 under any law to be guilty of perjury or otherwise giving a false statement
43 by reason of failure to recite or acknowledge that arrest, indictment,
44 information or trial in response to an inquiry made of him for any purpose.
45 Discharge and dismissal under this section may occur only once with
46 respect to any person.

47 5. A professional licensing board may consider a proceeding under this
48 section in determining suitability for a license or liability to discipline for
49 misconduct. Such a board is entitled for those purposes to a truthful answer



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1 from the applicant or licensee concerning any such proceeding with respect
2 to him.

3 *6. A law enforcement agency may consider a proceeding under this*
4 *section in determining suitability for employment as a peace officer and*
5 *is entitled for that purpose to a truthful answer from an applicant*
6 *concerning any such proceeding with respect to him.*

7 **Sec. 3.** NRS 453.3365 is hereby amended to read as follows:

8 453.3365 1. Three years after a person is convicted and sentenced
9 pursuant to subsection 3 of NRS 453.336, the court may order sealed all
10 documents, papers and exhibits in that person's record, minute book entries
11 and entries on dockets, and other documents relating to the case in the
12 custody of such other agencies and officers as are named in the court's
13 order, if the:

14 (a) Person fulfills the terms and conditions imposed by the court and the
15 parole and probation officer; and

16 (b) Court, after a hearing, is satisfied that the person is rehabilitated.

17 2. Except as ~~limited by subsection 4,~~ *otherwise provided in*
18 *subsections 4 and 5,* 3 years after an accused is discharged from probation
19 pursuant to NRS 453.3363, the court shall order sealed all documents,
20 papers and exhibits in that person's record, minute book entries and entries
21 on dockets, and other documents relating to the case in the custody of such
22 other agencies and officers as are named in the court's order if the person
23 fulfills the terms and conditions imposed by the court and the division of
24 parole and probation of the department of motor vehicles and public safety.
25 The court shall order those records sealed without a hearing unless the
26 division of parole and probation petitions the court, for good cause shown,
27 not to seal the records and requests a hearing thereon.

28 3. If the court orders sealed the record of a person discharged pursuant
29 to NRS 453.3363, it shall send a copy of the order to each agency or officer
30 named in the order. Each such agency or officer shall notify the court in
31 writing of its compliance with the order.

32 4. A professional licensing board is entitled, for the purpose of
33 determining suitability for a license or liability to discipline for
34 misconduct, to inspect and to copy from a record sealed pursuant to this
35 section.

36 *5. A law enforcement agency is entitled, for the purpose of*
37 *determining suitability for employment as a peace officer, to inspect and*
38 *to copy from a record sealed pursuant to this section.*

39 **Sec. 4.** This act becomes effective upon passage and approval.

