

SENATE BILL NO. 353—COMMITTEE ON JUDICIARY

MARCH 23, 2009

Referred to Committee on Judiciary

SUMMARY—Revises certain provisions relating to sealed records concerning criminal proceedings. (BDR 14-193)

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; authorizing a law enforcement agency to inquire into and inspect sealed records concerning criminal proceedings under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law authorizes certain agencies to inquire into and inspect sealed
2 records concerning criminal proceedings under certain circumstances. (NRS
3 179.301) **Section 1** of this bill authorizes a law enforcement agency to inspect such
4 records of an applicant for employment with the law enforcement agency and to use
5 those records to form the basis for a decision concerning the employment of such
6 an applicant. **Section 1** also requires such an applicant to disclose information
7 concerning such criminal proceedings in an inquiry relating to an application for
8 employment with a law enforcement agency.

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

1 **Section 1.** Chapter 179 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 ***1. A law enforcement agency and its employees, agents and***
4 ***representatives may inquire into and inspect any records sealed***
5 ***pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365***
6 ***to determine the suitability or qualifications of any applicant for***
7 ***employment with the law enforcement agency. Events and***
8 ***convictions, if any, which are the subject of an order sealing***



1 *records may form the basis for a decision concerning an applicant*
2 *for employment with the law enforcement agency.*

3 2. *In any inquiry relating to an application for employment*
4 *with a law enforcement agency, a person to whom an order to seal*
5 *records pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or*
6 *453.3365 pertains shall disclose the arrest, conviction, dismissal or*
7 *acquittal and the events and proceedings relating to the arrest,*
8 *conviction, dismissal or acquittal.*

9 3. *As used in this section, "law enforcement agency" has the*
10 *meaning ascribed to in NRS 277.035.*

11 **Sec. 2.** NRS 179.285 is hereby amended to read as follows:

12 179.285 Except as otherwise provided in NRS 179.301 **and**
13 **section 1 of this act:**

14 1. If the court orders a record sealed pursuant to NRS
15 176A.265, 179.245, 179.255, 179.259 or 453.3365:

16 (a) All proceedings recounted in the record are deemed never to
17 have occurred, and the person to whom the order pertains may
18 properly answer accordingly to any inquiry, including, without
19 limitation, an inquiry relating to an application for employment,
20 concerning the arrest, conviction, dismissal or acquittal and the
21 events and proceedings relating to the arrest, conviction, dismissal
22 or acquittal.

23 (b) The person is immediately restored to the following civil
24 rights if his civil rights previously have not been restored:

- 25 (1) The right to vote;
26 (2) The right to hold office; and
27 (3) The right to serve on a jury.

28 2. Upon the sealing of his records, a person who is restored to
29 his civil rights must be given an official document which
30 demonstrates that he has been restored to the civil rights set forth in
31 paragraph (b) of subsection 1.

32 3. A person who has had his records sealed in this State or any
33 other state and whose official documentation of the restoration of
34 his civil rights is lost, damaged or destroyed may file a written
35 request with a court of competent jurisdiction to restore his civil
36 rights pursuant to this section. Upon verification that the person has
37 had his records sealed, the court shall issue an order restoring the
38 person to the civil rights to vote, to hold office and to serve on a
39 jury. A person must not be required to pay a fee to receive such an
40 order.

41 4. A person who has had his records sealed in this State or any
42 other state may present official documentation that he has been
43 restored to his civil rights or a court order restoring his civil rights as
44 proof that he has been restored to the right to vote, to hold office and
45 to serve as a juror.



Sec. 3. NRS 179.295 is hereby amended to read as follows:

179.295 1. The person who is the subject of the records that are sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365 may petition the court that ordered the records sealed to permit inspection of the records by a person named in the petition, and the court may order such inspection. Except as otherwise provided in this section and NRS 179.259 and 179.301, **and section 1 of this act**, the court may not order the inspection of the records under any other circumstances.

2. If a person has been arrested, the charges have been dismissed and the records of the arrest have been sealed, the court may order the inspection of the records by a prosecuting attorney upon a showing that as a result of newly discovered evidence, the person has been arrested for the same or similar offense and that there is sufficient evidence reasonably to conclude that he will stand trial for the offense.

3. The court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of such records for the purpose of obtaining information relating to persons who were involved in the incident recorded.

4. This section does not prohibit a court from considering a conviction for which records have been sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365 in determining whether to grant a petition pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365 for a conviction of another offense.

Sec. 4. This act becomes effective on July 1, 2009.

