

ASSEMBLY BILL NO. 292—ASSEMBLYMAN FUMO

MARCH 18, 2019

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing criminal procedure.  
(BDR 14-765)

FISCAL NOTE: Effect on Local Government: Increases or Newly  
Provides for Term of Imprisonment in County or City  
Jail or Detention Facility.  
Effect on the State: Yes.

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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; revising provisions governing the disclosure of certain materials and information in a criminal proceeding; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires a prosecuting attorney to permit a defendant, upon request, to inspect and copy or photograph certain materials within the possession, custody or control of the State. Such materials include: (1) written or recorded statements made by a defendant or a witness; (2) results or reports of certain exams, tests and experiments made in connection with the particular case or copies thereof; and (3) other books, papers documents, tangible objects or copies thereof. (NRS 174.235) This bill: (1) requires a prosecuting attorney to permit a defendant to inspect and copy or photograph any material or information contained in the complete file maintained by a law enforcement agency, investigative agency or office of a prosecuting attorney in connection with the investigation or prosecution of the case; (2) prescribes the materials and information that must be included in such a file; and (3) requires each law enforcement agency or investigative agency to provide such material and information to the office of a prosecuting attorney in a timely manner. This bill also provides that: (1) unless a greater penalty is provided pursuant to the bill, a person who willfully omits or knowingly misrepresents certain materials or information required to be disclosed is guilty of a misdemeanor; and (2) a law enforcement officer, prosecuting attorney or representative of an investigative agency who willfully omits or knowingly misrepresents certain materials or information required to be disclosed to a defendant or prosecutor is guilty of a category E felony.



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

**Section 1.** NRS 174.235 is hereby amended to read as follows:

174.235 1. Except as otherwise provided in NRS 174.233 to 174.295, inclusive, at the request of a defendant, the prosecuting attorney shall permit the defendant to inspect and to copy or photograph any ~~[.]~~ *part of a complete file, or copies thereof, maintained by any law enforcement agency, investigative agency or office of a prosecuting attorney in connection with the investigation or prosecution of the case, including, without limitation:*

(a) Written or recorded statements or confessions made by the defendant ~~[.]~~ or ~~[any written or recorded statements made by a witness the prosecuting attorney intends to call during the case in chief of the State, or copies thereof, within the possession, custody or control of the State, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney;]~~ *any codefendants;*

(b) ~~[Results or]~~ *Any oral statements made by a witness, which must be provided in written or electronic format, except for any oral statement made by a witness to a prosecuting attorney outside the presence of a law enforcement officer or representative of an investigative agency unless there is significantly new or different information in the oral statement from a prior statement made by the witness.*

(c) *Any results, reports, preliminary tests, screening notes, bench notes, data or calculations or other writings* of physical or mental examinations, scientific tests or scientific experiments made in connection with the particular case ~~[.]~~ or copies thereof ~~[, within the possession, custody or control of the State, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; and —(c)] ;~~

(d) Books, papers, documents, tangible objects, ~~[or]~~ copies thereof ~~[, which the prosecuting attorney intends to introduce during the case in chief of the State and which are within the possession, custody or control of the State, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney.]~~ *or any other evidence collected in connection with the particular case; and*

(e) *Notes of an investigating officer.*

2. *Each law enforcement agency and investigative agency shall fully and accurately provide, in a timely manner, to the office of a prosecuting attorney a copy of each complete file maintained*



1 *by the agency in connection with the investigation or prosecution*  
2 *of a case, including, without limitation, any statement, report,*  
3 *book, paper, document, tangible object or any other type of item or*  
4 *information listed in subsection 1.*

5 3. The defendant is not entitled, pursuant to the provisions of  
6 this section, to the discovery or inspection of:

7 (a) An internal report, document or memorandum that is  
8 prepared by or on behalf of the prosecuting attorney in connection  
9 with the investigation or prosecution of the case.

10 (b) A statement, report, book, paper, document, tangible object  
11 or any other type of item or information that is privileged or  
12 protected from disclosure or inspection pursuant to the Constitution  
13 or laws of this state or the Constitution of the United States.

14 ~~3.4~~ 4. The provisions of this section are not intended to affect  
15 any obligation placed upon the prosecuting attorney by the  
16 Constitution of this state or the Constitution of the United States to  
17 disclose exculpatory evidence to the defendant.

18 5. *Unless a greater penalty is provided in subsection 6, any*  
19 *person who willfully omits or knowingly misrepresents any*  
20 *material or information required to be disclosed pursuant to this*  
21 *section is guilty of a misdemeanor.*

22 6. *Any law enforcement officer, prosecuting attorney or*  
23 *representative of an investigative agency who willfully omits or*  
24 *knowingly misrepresents any material or information required to*  
25 *be disclosed pursuant to subsection 1 or 2 is guilty of a category E*  
26 *felony and shall be punished as provided in NRS 193.130.*

27 7. *As used in this section:*

28 (a) *“Investigative agency” means any public or private agency*  
29 *designated by a law enforcement agency or office of a prosecuting*  
30 *attorney to obtain information concerning the prosecution of a*  
31 *criminal case in this State.*

32 (b) *“Office of a prosecuting attorney” means the office,*  
33 *including any representative or employee, of the attorney*  
34 *prosecuting a criminal case in this State.*

