

TITL: Compendium of State Privacy and Security Legislation: 1997
Overview - NEVADA ; CH 179A Revised Statutes Annotated

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SALE: US Department of Justice, Bureau of Justice Statistics
National Institute of Justice/NCJRS Paper Reproduction Sales
Box 6000, Dept. F
Rockville, MD 20849

DOCUMENT #: 170062

DATE: 1997

PAGE: 19 p

ORIG: United States

LANG: English

SUBJECT: Legislation/policy descriptions

ANNOTATION: This is a 1997 overview of State law pertinent to the
privacy and security of criminal justice information.

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179A.060 RECORDS OF CRIMINAL HISTORY

GENERAL PROVISIONS

179A.010 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 179A.020 to 179A.073, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1979, 1850; A 1987, 1764)

179A.020 "Administration of criminal justice" defined. "Administration of criminal justice" means detection, apprehension, detention, release pending trial or after trial, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders, and includes criminal identification activities and the collection, storage and dissemination of records of criminal history.

(Added to NRS by 1979, 1850)

179A.030 "Agency of criminal justice" defined. "Agency of criminal justice" means:

1. Any court; and
2. Any governmental agency which performs a function in the administration of criminal justice pursuant to a statute or executive order, and which allocates a substantial part of its budget to a function in the administration of criminal justice.

(Added to NRS by 1979, 1850)

179A.045 "Central repository" defined. "Central repository" means the central repository for Nevada records of criminal history.

(Added to NRS by 1985, 912)

179A.047 "Child" defined. "Child" means a person under the age of 16 years.

(Added to NRS by 1987, 1760)

179A.049 "Department" defined. "Department" means the department of motor vehicles and public safety.

(Added to NRS by 1987, 1760)

179A.050 "Disposition" defined. "Disposition" means the formal conclusion of a criminal proceeding at any point in the administration of criminal justice which shows the nature of the conclusion.

(Added to NRS by 1979, 1850)

179A.060 "Dissemination" defined. "Dissemination" means disclosing records of criminal history or the absence of records of criminal

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history to a person or agency outside the organization which has control of the information.

(Added to NRS by 1979, 1850; A 1985, 912)

179A.065 "Information relating to sexual offenses" defined.
 "Information relating to sexual offenses" means information contained in or concerning a record of criminal history, or the records of criminal history of the United States or another state, relating in any way to a sexual offense.

(Added to NRS by 1987, 1760)

179A.070 "Record of criminal history" defined.

1. "Record of criminal history" means information contained in records collected and maintained by agencies of criminal justice, the subject of which is a natural person, consisting of descriptions which identify the subject and notations of arrests, detention, indictments, informations or other formal criminal charges and dispositions of charges, including dismissals, acquittals, convictions, sentences, correctional supervision and release, occurring in Nevada. The term includes only information contained in memoranda of formal transactions between a person and an agency of criminal justice in this state. The term is intended to be equivalent to the phrase "criminal history record information" as used in federal regulations.

2. "Record of criminal history" does not include:

(a) Investigative or intelligence information, reports of crime or other information concerning specific persons collected in the course of the enforcement of criminal laws.

(b) Information concerning juveniles.

(c) Posters, announcements or lists intended to identify fugitives or wanted persons and aid in their apprehension.

(d) Original records of entry maintained by agencies of criminal justice if the records are chronological and not cross-indexed in any other way.

(e) Records of application for and issuance, suspension, revocation or renewal of occupational licenses, including permits to work in the gaming industry.

(f) Court indices and records of public judicial proceedings, court decisions and opinions, and information disclosed during public judicial proceedings.

(g) Records of traffic violations constituting misdemeanors.

(h) Records of traffic offenses maintained by the department to regulate the issuance, suspension, revocation or renewal of drivers' or other operators' licenses.

(i) Announcements of actions by the state board of pardons commissioners and the state board of parole commissioners.

(j) Records which originated in an agency other than an agency of criminal justice in this state.

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(Added to NRS by 1979, 1850; A 1985, 1977; 1987, 1764)

179A.073 "Sexual offense" defined.

1. "Sexual offense" includes acts upon a child constituting:

- (a) Sexual assault under NRS 200.366;
- (b) Statutory sexual seduction under NRS 200.368;
- (c) Use of a minor in producing pornography under NRS 200.710;
- (d) Promotion of a sexual performance of a minor under NRS 200.720;
- (e) Possession of a visual presentation depicting the sexual conduct of a child under NRS 200.730;
- (f) Incest under NRS 201.180;
- (g) Solicitation of a minor to engage in the infamous crime against nature under NRS 201.195;
- (h) Lewdness with a child under NRS 201.230; or
- (i) Annoyance or molestation of a minor under NRS 207.260.

2. "Sexual offense" also includes acts committed outside the state that would constitute any of the offenses in subsection 1 if committed in the state, and the aiding, abetting, attempting or conspiring to engage in any of the offenses in subsection 1.

(Added to NRS by 1957, 1760)

**CENTRAL REPOSITORY FOR NEVADA RECORDS
OF CRIMINAL HISTORY**

179A.075 Creation; submission of record required; duties and powers of Nevada highway patrol division.

1. The central repository for Nevada records of criminal history is hereby created within the Nevada highway patrol division of the department.
2. Each agency of criminal justice shall submit the information relating to sexual offenses and other records of criminal history it collects to the division in the manner prescribed by the director of the department. A report of disposition must be submitted to the division through an electronic network or on a media of magnetic storage within 30 days after the date of disposition. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the division. The division shall delete all references in the central repository relating to that particular arrest.
3. The division shall:
 - (a) Collect, maintain and arrange all information relating to sexual offenses and other records of criminal history submitted to it; and
 - (b) Use a record of the subject's fingerprints as the basis for any records maintained regarding him.

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4. The division may:
- (a) Disseminate any information which is contained in the central repository to any other agency of criminal justice; and
 - (b) Enter into cooperative agreements with federal and state repositories to facilitate exchanges of such information.
- (Added to NRS by 1985, 912; A 1987, 666, 1765)

179A.080 Duties of director of department. The director of the department is responsible for administering this chapter and may adopt regulations for that purpose. The director shall:

- 1. Adopt regulations for the security of the central repository so that it is adequately protected from fire, theft, loss, destruction, other hazards and unauthorized access.
 - 2. Adopt regulations and standards for personnel employed by agencies of criminal justice in positions of responsibility for maintenance and dissemination of information relating to sexual offenses and other records of criminal history.
 - 3. Provide for audits of informational systems by qualified public or private agencies, organizations or persons.
- (Added to NRS by 1979, 1854; A 1981, 2010; 1985, 913, 1978; 1987, 1765)

179A.090 Prerequisite to dissemination of records: exceptions. No agency of criminal justice in Nevada may disseminate any record of criminal history which includes information about a felony or a gross misdemeanor without first making inquiry of the central repository, to obtain the most current and complete information available, unless:

- 1. The information is needed for a purpose in the administration of criminal justice for which time is essential, and the central repository is not able to respond within the required time;
- 2. The full information requested and to be disseminated relates to specific facts or incidents which are within the direct knowledge of an officer, agent or employee of the agency which disseminates the information;
- 3. The full information requested and to be disseminated was received as part of a summary of records of criminal history from the central repository within 30 days before the information is disseminated;
- 4. The statute, executive order, court rule or court order under which the information is to be disseminated refers only to information which is in the files of the agency which makes the dissemination;
- 5. The information requested and to be disseminated is for the express purpose of research, evaluation or statistical activities to be based upon information maintained in the files of the agency or agencies from which the information is sought; or

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6. The information is requested by a compensation officer of the state board of examiners pursuant to NRS 217.090.

(Added to NRS by 1979, 1851; A 1981, 1673; 1985, 913)

179A.100 Records which may be disseminated without restriction; persons to whom records must be disseminated upon request; permission required for dissemination of information relating to sexual offenses.

1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and

(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the central repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee which:

(a) Reflect convictions only; or

(b) Pertain to an incident for which the prospective employee is currently within the system of criminal justice, including parole or probation.

4. The central repository shall disseminate to a prospective or current employer, upon request, information relating to sexual offenses concerning an employee or prospective employee who gives his written consent to the release of that information.

5. Records of criminal history must be disseminated by an agency of criminal justice upon request, to the following persons or governmental entities for the following purposes:

(a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.

(b) The person who is the subject of the record of criminal history or his attorney of record when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.

(c) The gaming control board.

(d) Any agency of criminal justice of the United States or of another state or the District of Columbia.

(e) Any public utility subject to the jurisdiction of the public service commission of Nevada when the information is necessary to conduct a

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security investigation of an employee or prospective employee, or to protect the public health, safety or welfare.

(f) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

(g) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.

(h) Any reporter for the electronic or printed media in his professional capacity for communication to the public.

(i) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.

(j) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.

6. Agencies of criminal justice in this state which receive information from sources outside the state concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the laws of the state or other jurisdiction from which the information was received.

(Added to NRS by 1979, 1852; A 1985, 913; 1987, 1765)

179A.110 Further dissemination of information or records. No person who receives information relating to sexual offenses or other records of criminal history pursuant to this chapter may disseminate it further without express authority of law or in accordance with a court order. This section does not prohibit the dissemination of material by an employee of the electronic or printed media in his professional capacity for communication to the public.

(Added to NRS by 1979, 1853; A 1987, 1767)

179A.120 Disclosures to victims of crime.

1. Agencies of criminal justice may disclose to victims of a crime, members of their families or their guardians the identity of persons suspected of being responsible for the crime, including juveniles who have been certified to stand trial as adults, together with information, including dispositions, which may be of assistance to the victim in obtaining redress for his injury or loss in a civil action. This disclosure may be made regardless of whether charges have been filed, and even if a prosecuting attorney has declined to file charges or the charge has been dismissed.

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2. Disclosure of investigative information pursuant to this section does not establish a duty to disclose any additional information concerning the same incident or make any disclosure of information obtained by an investigation, except as compelled by legal process.

(Added to NRS by 1979, 1853; A 1981, 2025)

179A.130 Log of dissemination of information or records. Each agency of criminal justice which maintains and disseminates information relating to sexual offenses or other records of criminal history must maintain a log of each dissemination of that information other than a dissemination of the fact that the agency has no record relating to a certain person. The log must be maintained for at least 1 year after the information is disseminated, and must contain:

1. An entry showing to what agency or person the information relating to sexual offenses or other records of criminal history were provided;
2. The date on which the information was provided;
3. The person who is the subject of the information; and
4. A brief description of the information provided.

(Added to NRS by 1979, 1853; A 1987, 1767)

179A.140 Fee for furnishing information or records: use of money collected.

1. Agencies of criminal justice may charge a reasonable fee for any information relating to sexual offenses or other records of criminal history furnished to any person or governmental entity except another agency of criminal justice.

2. All money received or collected by the department pursuant to this section must be used to defray the cost of operating the central repository.

(Added to NRS by 1979, 1853; A 1985, 915; 1987, 1767)

179A.150 Inspection and correction of information or records.

1. The central repository and each state, municipal, county or metropolitan police agency shall permit a person, who is or believes he may be the subject of information relating to sexual offenses or other records of criminal history maintained by that agency, to appear in person during normal business hours of the agency and inspect any recorded information held by that agency pertaining to him. This right of access does not extend to data contained in intelligence, investigative or other related files, and does not include any information other than that defined as information relating to sexual offenses or a record of criminal history.

2. Each such agency shall adopt regulations and make available necessary forms to permit inspection and review of information relating to sexual offenses or other records of criminal history by those persons who are the subjects thereof. The regulations must specify:

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(a) The reasonable periods during which the records are available for inspection;

(b) The requirements for proper identification of the persons seeking access to the records; and

(c) The reasonable charges or fees, if any, for inspecting records.

3. Each such agency shall procure for and furnish to any person who requests it and pays a reasonable fee therefor, all of the information contained in the central repository which pertains to the person making the request.

4. The director of the department shall adopt regulations governing:

(a) All challenges to the accuracy or sufficiency of information relating to sexual offenses or other records of criminal history by the person who is the subject of the allegedly inaccurate or insufficient record;

(b) The correction of any information relating to sexual offenses or other record of criminal history found by the director to be inaccurate, insufficient or incomplete in any material respect;

(c) The dissemination of corrected information to those persons or agencies which have previously received inaccurate or incomplete information; and

(d) A time limit of not more than 90 days within which inaccurate or insufficient information relating to sexual offenses or other records of criminal history must be corrected and the corrected information disseminated. The corrected information must be sent to each person who requested the information in the 12 months preceding the date on which the correction was made, and notice of the correction must be sent to each person entitled thereto pursuant to NRS 179A.210, to the address given by each person who requested the information when the request was made.

(Added to NRS by 1979, 1854; A 1981, 2010; 1985, 915, 1978; 1987, 1767)

179A.160 Removal of certain records where disposition of case favorable to accused. At any time after a date 5 years after the arrest of a person, or after 5 years after the date of issuance of a citation or warrant, for an offense for which the person was acquitted or which ended in a disposition favorable to the person, the person who is the subject of a record of criminal history relating to the arrest, citation or warrant may apply in writing to the central repository and the agency which maintains the record to have it removed from the files which are available and generally searched for the purpose of responding to inquiries concerning the criminal history of a person. The central repository and the agency shall remove the record unless:

1. The defendant is a fugitive.

2. The case is under active prosecution according to a current certificate of a prosecuting attorney.

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3. The disposition of the case was a deferred prosecution, plea bargain or other similar disposition.

4. The person who is the subject of the record has a prior conviction for a felony or gross misdemeanor in any jurisdiction in the United States.

5. The person who is the subject of the record has been arrested for or charged with another crime, other than a minor traffic violation, during the 5 years since the arrest, citation or warrant which he seeks to have removed from the record.

This section does not restrict the authority of a court to order the deletion or modification of a record in a particular cause or concerning a particular person or event.

(Added to NRS by 1979, 1853; A 1985, 916)

179A.170 Unlawful acts. Replaced in revision by NRS 179A.300.

INFORMATION RELATING TO SEXUAL OFFENSES

179A.180 Definitions. As used in NRS 179A.190 to 179A.240, inclusive, unless the context otherwise requires:

1. "Employee" means a person who renders time and services to an employer, and whose regular course of duties places that person in a position to:

(a) Exercise supervisory or disciplinary control over children;

(b) Have direct access to or contact with children served by the employer;

or

(c) Have access to information or records maintained by the employer relating to identifiable children served by the employer.

and includes a volunteer, prospective employee and prospective volunteer; and

2. "Employer" means a person, or a governmental agency or political subdivision of this state that is not an agency of criminal justice, whose employees regularly render services to children, including without limitation care, treatment, transportation, instruction, companionship, entertainment and custody.

(Added to NRS by 1987, 1760)

179A.190 Notice of information may be disseminated to employers; use by employer; employer not liable for discrimination; other dissemination or release.

1. Notice of information relating to sexual offenses may be disseminated to employers pursuant to NRS 179A.190 to 179A.240, inclusive.

2. An employer may consider such a notice of information concerning an employee when making a decision to hire, retain, suspend or discharge the

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employee, and is not liable in an action alleging discrimination based upon consideration of information obtained pursuant to NRS 179A.190 to 179A.240, inclusive.

3. The provisions of NRS 179A.190 to 179A.240, inclusive, do not limit or restrict any other statute specifically permitting the dissemination or release of information relating to sexual offenses.

(Added to NRS by 1987, 1761)

179A.200 Employer may request notice of information.

1. An employer may request from the central repository notice of information relating to sexual offenses concerning an employee.

2. A request for notice of information relating to sexual offenses from an employer must conform to the requirements of the central repository. The request must include:

(a) The name and address of the employer, and the name and signature of the person requesting the notice on behalf of the employer;

(b) The name and address of the employer's facility in which the employee is employed or seeking to become employed;

(c) The name, fingerprints and other identifying information of the employee;

(d) Signed consent by the employee to a search of information relating to sexual offenses concerning him, and for the release of a notice concerning that information;

(e) The mailing address of the employee or a signed waiver of the right of the employee to be sent a copy of the information disseminated to the employer as a result of the search of the records of criminal history; and

(f) The signature of the employee indicating that he has been notified of:

(1) The types of information for which notice is subject to dissemination pursuant to NRS 179A.210, or a description of the information;

(2) The employer's right to require a check of the records of criminal history as a condition of employment; and

(3) The employee's right, pursuant to NRS 179A.150, to challenge the accuracy or sufficiency of any information disseminated to the employer.

(Added to NRS by 1987, 1761)

179A.210 Request by employer for notice of information; search by central repository; dissemination of notice; written report required; correction of information; receipt of new information.

1. Upon receipt of a request from an employer for notice of information relating to sexual offenses, the central repository shall undertake a search for the information, unless the request does not conform to the requirements of the repository. The search must be based on the employee's fingerprints, or on a number furnished to the employee for identification pursuant to a previous search, as provided by the employer, and must include:

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(a) Identifying any information relating to sexual offenses concerning the employee in the central repository;

(b) Requesting information relating to sexual offenses concerning the employee from federal repositories and repositories of other states, if authorized by federal law or an agreement entered into pursuant to NRS 179A.075;

(c) If the information pertains to an arrest for which no disposition has been reported, contacting appropriate officers in the local jurisdiction where the arrest or prosecution occurred to verify and update the information; and

(d) Determining whether the information relating to sexual offenses is the type of information for which notice is subject to dissemination pursuant to this section.

2. Notice of information relating to sexual offenses may be disseminated to an employer who has requested it only if a check of the pertinent records indicates:

(a) A conviction for a sexual offense, or a conviction based on an arrest or on an initial charge for a sexual offense;

(b) An arrest or an initial charge for a sexual offense pending at the time of the request; or

(c) Two or more incidents resulting in arrest or initial charge for a sexual offense that have not resulted in a conviction.

3. Within 30 days after receipt of a request by an employer for notice of information relating to sexual offenses, the central repository shall send a written report of the results of the search to the employer and to the employee, except that if the employee has waived his right to receive the results of the search, the report must be sent only to the employer. If the search revealed:

(a) No information for which notice is subject to release, the report must include a statement to that effect; or

(b) Information about the employee for which notice is subject to release, the report must include a notice of the type of information, limited to the descriptions set forth in subsection 2, revealed by the search. The notice must not include any further facts or details concerning the information, a statement of the purpose for which the notice is being disseminated, and the procedures by which the employee might challenge the accuracy and sufficiency of the information, must also be included with the report.

4. Upon receipt of corrected information relating to sexual offenses for which notice was disseminated under this section, the central repository shall send written notice of the correction to:

(a) The employee who was the subject of the search, unless the employee has waived his right to receive such a notice;

(b) All employers to whom notice of the results of the search were disseminated within 3 months before the correction; and

(c) Upon request of the employee, any other employers who previously received the information.

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5. Upon receipt of new information relating to sexual offenses concerning an employee who was the subject of a search within the previous 3 months, for which notice is subject to dissemination under this section, the central repository shall send written notice of the information to:

- (a) The employee who was the subject of the search, unless the employee has waived his right to receive such a notice;
- (b) All employers to whom a report of the results of the search were disseminated within 3 months before the correction; and
- (c) Upon request of the employee, any other employers who previously received a report of the results of the search.

(Added to NRS by 1987, 1761)

179A.220 Hearings. All hearings arising under NRS 179A.190 to 179A.240, inclusive, must be held as provided in NRS 233B.121 to 233B.150, inclusive.

(Added to NRS by 1987, 1763)

179A.230 Actions for damages: Person who is subject of request for notice of information; child who is victim of sexual offense committed by employee; amount of damages; period of limitation.

1. A person who is the subject of a request for notice of information relating to sexual offenses pursuant to NRS 179A.190 to 179A.240, inclusive, may recover his actual damages in a civil action against:

(a) The central repository for an intentional or grossly negligent:

- (1) Dissemination of information relating to sexual offenses not authorized for dissemination; or
- (2) Release of information relating to sexual offenses to a person not authorized to receive the information;

(b) The central repository for an intentional or grossly negligent failure to correct any notice of information relating to sexual offenses which was disseminated pursuant to NRS 179A.190 to 179A.240, inclusive; or

(c) An employer, representative of an employer or employee for an intentional or grossly negligent violation of NRS 179A.110. Punitive damages may be awarded against an employer, representative of an employer or employee whose violation of NRS 179A.110 is malicious.

2. An employer, except an employer who is a voluntary organization consisting primarily of persons who provide their services for no remuneration other than reimbursement for actual expenses incurred, is liable to a child served by the employer for damages suffered by the child as a result of a sexual offense committed against the child by an employee hired on or after January 1, 1988, if, at the time the employer hired the employee, the employee was the subject of information relating to sexual offenses for which notice was available for dissemination to the employer and the employer:

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(a) Failed, without good cause, to request notice of the information pursuant to NRS 179A.190 to 179A.240, inclusive; or

(b) Was unable to obtain the information because the employee refused to consent to the search and release of the information, and the employer hired or retained the employee despite this refusal.

The amount of damages for which an employer is liable pursuant to this subsection must be reduced by the amount of damages recovered by the child in an action against the employee for damages sustained as a result of the sexual offense.

3. An action pursuant to this section must be brought within 3 years after:

(a) The occurrence upon which the action is based; or

(b) The date upon which the party bringing the action became aware or reasonably should have become aware of the occurrence, whichever was earlier, if he was not aware of the occurrence at the time of the occurrence.

4. This section does not limit or affect any other rights, claims or causes of action arising by statute or common law.

(Added to NRS by 1987, 1763)

179A.240 Unlawful acts. A person who knowingly and willfully:

1. Uses NRS 179A.190 to 179A.240, inclusive, to obtain or seek to obtain information relating to sexual offenses under false pretenses;

2. Disseminates or attempts to disseminate information relating to sexual offenses that he knows was not received in accordance with the provisions of this chapter; or

3. Disseminates or attempts to disseminate information relating to sexual offenses that he knows is false, inaccurate or incomplete, is guilty of a misdemeanor.

(Added to NRS by 1957, 1764)

PENALTIES

179A.300 Unlawful acts. Any person who:

1. Willfully requests, obtains or seeks to obtain records of criminal history under false pretenses;

2. Willfully communicates or seeks to communicate records of criminal history to any agency or person except pursuant to this chapter; or

3. Willfully falsifies any record of criminal history or any record relating to records of criminal history, is guilty of a misdemeanor.

(Added to NRS by 1979, 1855)--(Substituted in revision for NRS 179A.170)

Sealing Records

Sec. 32. NRS 179.245 is hereby amended to read as follows:

179.245 1. A person who has been convicted of [any] :

(a) Any felony may, after 15 years from the date of his conviction or, if he is imprisoned, from the date of his release from actual custody [, a person who has been convicted of a] ;

(b) Any gross misdemeanor may, after 10 years from the date of his conviction or release from custody [, and a person who has been convicted of a] ;

(c) A violation of NRS 484.379 other than a felony may, after 7 years from the date of his conviction or release from custody; or

(d) Any other misdemeanor may, after 5 years from the date of his conviction or release from custody,

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petition the court in which the conviction was obtained for the sealing of all records relating to [such] the conviction.

2. The court shall notify the district attorney of the county in which the conviction was obtained, and the district attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

3. If after hearing the court finds that, in the [15 years preceding the filing of the petition if the conviction was for a felony, in the 10 years preceding the filing of the petition if the conviction was for a gross misdemeanor, or in the 5 years preceding the filing of the petition, if the conviction was for a misdemeanor,] *period prescribed in subsection 1*, the petitioner has not been arrested, except for minor moving or standing traffic violations, the court may order sealed all records of [such] the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private agency, company or official in the State of Nevada, and may also order all such criminal identification records of the petitioner returned to the file of the court where the proceeding was commenced from, but not limited to, the Federal Bureau of Investigation, the California identification and investigation bureau, sheriffs' offices and all other law enforcement agencies reasonably known by either the petitioner or the court to have possession of such records.

179.255 Sealing record after dismissal, acquittal: Petition; notice; hearing; order.

1. A person who has been arrested for alleged criminal conduct, where the charges were dismissed or such person was acquitted of the charge, may after 30 days from the date the charges were dismissed or from the date of the acquittal petition the court in and for the county where such arrest was made for the sealing of all records relating to the arrest.

2. The court shall notify the district attorney of the county in which the arrest was made, and the district attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

3. If after hearing the court finds that there has been an acquittal or that the charges were dismissed and there is no evidence that further action will be brought against the person, the court may order sealed all records of the arrest and of the proceedings leading to the acquittal which are in the custody of the court, of another court in the State of Nevada or of a public or private company, agency or official in the State of Nevada.

(Added to NRS by 1971, 955)

179.265 Rehearings after denial of petition: Time for; number.

1. A person whose petition is denied under NRS 179.245 or 179.255 may petition for a rehearing not sooner than 2 years after the denial of the previous petition.

2. No person may petition for more than two rehearings.

(Added to NRS by 1971, 956)

179.275 Order sealing record: Distribution; compliance. Where the court orders the sealing of any record pursuant to NRS 179.245 or 179.255, a copy of the order shall be sent to each public or private company, agency or official named in the order, and such organization or individual shall seal the records in its custody which relate to the matters contained in the order, shall advise the court of its compliance, and shall then seal the order.

(Added to NRS by 1971, 956)

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179.285 Order sealing records: Effect. Except as provided in NRS 179.301, if the court orders the records sealed pursuant to NRS 179.245 or 179.255, all proceedings recounted in the record are deemed never to have occurred, and such person may properly answer accordingly to any inquiry concerning the arrest, conviction or acquittal and the events and proceedings relating to the arrest, conviction or acquittal.

(Added to NRS by 1971, 956; A 1981, 1105)

179.295 Reopening of sealed records.

1. The person who is the subject of the records which are sealed pursuant to NRS 179.245 or 179.255 may petition the district court to permit inspection of the records by a person named in the petition, and the district court may order such inspection. Except as provided in subsection 2 and NRS 179.301, the court may not order the inspection of the records under any other circumstances.

2. Where a person has been arrested and the charges dismissed and the records of the arrest have been sealed, the court may order the inspection of the record by the district 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 district 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.

(Added to NRS by 1971, 956; A 1981, 1105)

179.301 Inspection of sealed records by state gaming control board and Nevada gaming commission. The state gaming control board and Nevada gaming commission and their employees, agents and representatives may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255, if the event or conviction was related to gaming, for purposes of determining the suitability or qualifications of any person to hold a state gaming license, manufacturer's, seller's or distributor's license or gaming work permit pursuant to chapter 463 of NRS. Events and convictions, if any, which are the subject of an order sealing records may form the basis for recommendation, denial or revocation of those licenses or work permits.

(Added to NRS by 1981, 1105)

* * *

453.336 Unlawful possession not for purpose of sale; penalties.

1. It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a physician, dentist, podiatrist or veterinarian while acting in the course of his professional practice, or except as otherwise authorized by the provisions of NRS 453.011 to 453.551, inclusive.

2. Except as provided in subsections 3 and 4, any person who violates this section shall be punished:

(a) For the first offense, if the controlled substance is listed in schedule I, II, III or IV, by imprisonment in the state prison for not less

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than 1 year nor more than 6 years, and may be further punished by a fine of not more than \$5,000.

(b) For a second offense, if the controlled substance is listed in schedule I, II, III or IV, or if, in case of a first conviction of violation of this section, the offender has previously been convicted of any violation of the laws of the United States or of any state, territory or district relating to a controlled substance, the offender shall be punished by imprisonment in the state prison for not less than 1 year nor more than 10 years and may be further punished by a fine of not more than \$10,000.

(c) For a third or subsequent offense, if the controlled substance is listed in schedule I, II, III or IV, or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United States or of any state, territory or district relating to a controlled substance, the offender shall be punished by imprisonment in the state prison for not less than 1 year nor more than 20 years and may be further punished by a fine of not more than \$20,000.

(d) For the first offense, if the controlled substance is listed in schedule V, by imprisonment in the county jail for not more than 1 year, and may be further punished by a fine of not more than \$1,000.

(e) For a second or subsequent offense, if the controlled substance is listed in schedule V, by imprisonment in the state prison for not less than 1 year nor more than 6 years, and may be further punished by a fine of not more than \$5,000.

3. Any person who is under 21 years of age and is convicted of the possession of less than 1 ounce of marihuana:

(a) For the first offense:

(1) Shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years, and may be further punished by a fine of not more than \$2,000; or

(2) Shall be punished by imprisonment in the county jail for not more than 1 year, and may be further punished by a fine of not more than \$1,000, and may have his driver's license suspended for not more than 6 months.

(b) For the second offense shall be punished in the manner prescribed by subsection 2 for a first offense.

(c) For a third or subsequent offense, shall be punished in the manner prescribed by subsection 2 for a second offense.

4. Before sentencing under the provisions of subsection 3, the court shall require the parole and probation officer to submit a presentencing report on the person convicted in accordance with the provisions of NRS 176.195. After the report is received but before sentence is pronounced the court shall:

(a) Interview the person convicted and make a determination as to the possibility of his rehabilitation; and

(b) Conduct a hearing at which evidence may be presented as to the possibility of rehabilitation and any other relevant information received as to whether the person convicted of the offense shall be adjudged to have committed a felony or to have committed a gross misdemeanor.

5. Three years after the person has been convicted and sentenced under the provisions of subsection 3, the court may order sealed all records, papers and exhibits in such person's record, minute book entries and entries on dockets, and other records relating to the case in the custody of such other agencies and officials as are named in the court's order, if:

(a) The person fulfilled all the terms and conditions imposed by the court and by the parole and probation officer; and

(b) The court, after hearing, is satisfied that the rehabilitation has been attained.

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6. Whenever any person who has not previously been convicted of any offense under the provisions of NRS 453.011 to 453.551, inclusive, or under any statute of the United States or of any state relating to narcotic drugs, marihuana or stimulant, depressant or hallucinogenic drugs pleads guilty to or is found guilty under this section of possession of a controlled substance not for the purpose of sale, the court, with the consent of the accused, may impose sentence, including a fine, suspend imprisonment, seal the record and place him on probation upon terms and conditions.

7. The record of a person sentenced under subsection 6 which has been sealed by the court may remain sealed until:

(a) The defendant fulfills all of the terms and conditions imposed by the court and by his probation officer, when the record may be expunged; or

(b) His probation is revoked and the sentence is executed.

8. There may be only one suspension of sentence under subsection 6 with respect to any person.

(Added to NRS by 1971, 2019; A 1973, 1214; 1977, 1413; 1979, 1473; 1981, 740, 1210, 1962)

* * *

Public Records

239.010 Public books, records open to inspection; penalty.

1. All public books and public records of state, county, city, district, governmental subdivision and quasi-municipal corporation officers and offices of this state (and all departments thereof), the contents of which are not otherwise declared by law to be confidential, shall be open at all times during office hours to inspection by any person, and the same may be fully copied or an abstract or memorandum prepared therefrom, and any copies, abstracts or memoranda taken therefrom may be utilized to supply the general public with copies, abstracts or memoranda of the records or in any other way in which the same may be used to the advantage of the owner thereof or of the general public.

2. Any officer having the custody of any of the public books and public records described in subsection 1 who refuses any person the right to inspect such books and records as provided in subsection 1 is guilty of a misdemeanor.

[1:149:1911; RL § 3232; NCL § 5620]—(NRS A 1963, 26; 1965, 69)

239.030 Furnishing of certified copies of public records. Every officer having custody of public records, the contents of which are not declared by law to be confidential, shall furnish copies certified to be correct to any person who requests them and pays or tenders such fees as may be prescribed for the service of copying and certifying.

[1:73:1909; RL § 2045; NCL § 2976]—(NRS A 1973, 353)

62.350. Fingerprinting or photographing of child who is arrested or under investigation.

1. The fingerprints of a child who is arrested for an act that would be a felony if committed by an adult may be taken and retained by law enforcement officers as provided in subsection 3.

2. If latent fingerprints are found during the investigation of an offense and a law enforcement officer has reason to believe that they are those of a child in custody, he may fingerprint the child for the purpose of making an immediate comparison with the latent fingerprints. If the comparison is:

(a) Negative, the fingerprint card and other copies of the fingerprints taken may be immediately destroyed or may be retained for future use.

(b) Positive, the fingerprint card and other copies of the fingerprints:

(1) Must be delivered to the court for disposition if the child is referred to court.

(2) May be immediately destroyed or may be retained for future use if the child is not referred to court.

Fingerprints must not be submitted to the Federal Bureau of Investigation or Criminal Identification and Investigation Bureau of California unless the child is found to have committed an act of delinquency that would be a felony if committed by an adult.

3. If the fingerprints of a child are taken pursuant to subsection 1 or 2, they may be retained in a local file, including any local system for the automatic retrieval of fingerprints, or sent to a central state depository but they must be kept separate from those of adults, under special security measures limited to inspection for the purpose of comparison by law enforcement officers or by staff of the depository only in the investigation of a crime.

4. A child in custody must be photographed for the purpose of identification. The photograph must be kept in the file pertaining to the child, under special security measures limited to inspection by law enforcement officers only in the investigation of a crime.

5. Any person who willfully violates any provision of this section is guilty of a misdemeanor. (1973, p. 1349; 1989, ch. 18, § 1, p. 19; 1991, ch. 27, § 1, p. 55; 1995, ch. 444, § 11, p. 1351.)