

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1009

Introduced by Ashford, 20.

Read first time January 17, 2012

Committee: Judiciary

A BILL

1 FOR AN ACT relating to criminal procedure; to amend section 29-2263,
2 Reissue Revised Statutes of Nebraska, and section
3 84-712.05, Revised Statutes Supplement, 2011; to declare
4 probation records not subject to disclosure as provided;
5 to harmonize provisions; and to repeal the original
6 sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-2263, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 29-2263 (1) When a court has sentenced an offender to
4 probation, the court shall specify the term of such probation which
5 shall be not more than five years upon conviction of a felony or
6 second offense misdemeanor and two years upon conviction of a first
7 offense misdemeanor. The court, on application of a probation officer
8 or of the offender or on its own motion, may discharge an offender at
9 any time.

10 (2) During the term of probation, the court on
11 application of a probation officer or of the offender, or its own
12 motion, may modify or eliminate any of the conditions imposed on the
13 offender or add further conditions authorized by section 29-2262.
14 This subsection does not preclude a probation officer from imposing
15 administrative sanctions with the offender's full knowledge and
16 consent as authorized by subsection (2) of section 29-2266.

17 (3) All records, files, and information developed,
18 received, or maintained by a district probation office or the Office
19 of Probation Administration during a probationer's term of probation
20 shall not be a public record subject to disclosure pursuant to
21 sections 84-712 to 84-712.09 and shall not be otherwise open to
22 inspection except as specifically provided by statute or court order.

23 ~~(3)~~(4) Upon completion of the term of probation, or the
24 earlier discharge of the offender, the offender shall be relieved of
25 any obligations imposed by the order of the court and shall have

1 satisfied the sentence for his or her crime.

2 ~~(4)~~(5) Whenever a probationer disappears or leaves the
3 jurisdiction of the court without permission, the time during which
4 he or she keeps his or her whereabouts hidden or remains away from
5 the jurisdiction of the court shall be added to the original term of
6 probation.

7 Sec. 2. Section 84-712.05, Revised Statutes Supplement,
8 2011, is amended to read:

9 84-712.05 The following records, unless publicly
10 disclosed in an open court, open administrative proceeding, or open
11 meeting or disclosed by a public entity pursuant to its duties, may
12 be withheld from the public by the lawful custodian of the records:

13 (1) Personal information in records regarding a student,
14 prospective student, or former student of any educational institution
15 or exempt school that has effectuated an election not to meet state
16 approval or accreditation requirements pursuant to section 79-1601
17 when such records are maintained by and in the possession of a public
18 entity, other than routine directory information specified and made
19 public consistent with 20 U.S.C. 1232g, as such section existed on
20 January 1, 2003;

21 (2) Medical records, other than records of births and
22 deaths and except as provided in subdivision (5) of this section, in
23 any form concerning any person; records of elections filed under
24 section 44-2821; and patient safety work product under the Patient
25 Safety Improvement Act;

1 (3) Trade secrets, academic and scientific research work
2 which is in progress and unpublished, and other proprietary or
3 commercial information which if released would give advantage to
4 business competitors and serve no public purpose;

5 (4) Records which represent the work product of an
6 attorney and the public body involved which are related to
7 preparation for litigation, labor negotiations, or claims made by or
8 against the public body or which are confidential communications as
9 defined in section 27-503;

10 (5) Records developed or received by law enforcement
11 agencies and other public bodies charged with duties of investigation
12 or examination of persons, institutions, or businesses, when the
13 records constitute a part of the examination, investigation,
14 intelligence information, citizen complaints or inquiries, informant
15 identification, or strategic or tactical information used in law
16 enforcement training, except that this subdivision shall not apply to
17 records so developed or received relating to the presence of and
18 amount or concentration of alcohol or drugs in any body fluid of any
19 person;

20 (6) Appraisals or appraisal information and negotiation
21 records concerning the purchase or sale, by a public body, of any
22 interest in real or personal property, prior to completion of the
23 purchase or sale;

24 (7) Personal information in records regarding personnel
25 of public bodies other than salaries and routine directory

1 information;

2 (8) Information solely pertaining to protection of the
3 security of public property and persons on or within public property,
4 such as specific, unique vulnerability assessments or specific,
5 unique response plans, either of which is intended to prevent or
6 mitigate criminal acts the public disclosure of which would create a
7 substantial likelihood of endangering public safety or property;
8 computer or communications network schema, passwords, and user
9 identification names; guard schedules; lock combinations; or public
10 utility infrastructure specifications or design drawings the public
11 disclosure of which would create a substantial likelihood of
12 endangering public safety or property, unless otherwise provided by
13 state or federal law;

14 (9) The security standards, procedures, policies, plans,
15 specifications, diagrams, access lists, and other security-related
16 records of the Lottery Division of the Department of Revenue and
17 those persons or entities with which the division has entered into
18 contractual relationships. Nothing in this subdivision shall allow
19 the division to withhold from the public any information relating to
20 amounts paid persons or entities with which the division has entered
21 into contractual relationships, amounts of prizes paid, the name of
22 the prize winner, and the city, village, or county where the prize
23 winner resides;

24 (10) With respect to public utilities and except as
25 provided in sections 43-512.06 and 70-101, personally identified

1 private citizen account payment and customer use information, credit
2 information on others supplied in confidence, and customer lists;

3 (11) Records or portions of records kept by a publicly
4 funded library which, when examined with or without other records,
5 reveal the identity of any library patron using the library's
6 materials or services;

7 (12) Correspondence, memoranda, and records of telephone
8 calls related to the performance of duties by a member of the
9 Legislature in whatever form. The lawful custodian of the
10 correspondence, memoranda, and records of telephone calls, upon
11 approval of the Executive Board of the Legislative Council, shall
12 release the correspondence, memoranda, and records of telephone calls
13 which are not designated as sensitive or confidential in nature to
14 any person performing an audit of the Legislature. A member's
15 correspondence, memoranda, and records of confidential telephone
16 calls related to the performance of his or her legislative duties
17 shall only be released to any other person with the explicit approval
18 of the member;

19 (13) Records or portions of records kept by public bodies
20 which would reveal the location, character, or ownership of any known
21 archaeological, historical, or paleontological site in Nebraska when
22 necessary to protect the site from a reasonably held fear of theft,
23 vandalism, or trespass. This section shall not apply to the release
24 of information for the purpose of scholarly research, examination by
25 other public bodies for the protection of the resource or by

1 recognized tribes, the Unmarked Human Burial Sites and Skeletal
2 Remains Protection Act, or the federal Native American Graves
3 Protection and Repatriation Act;

4 (14) Records or portions of records kept by public bodies
5 which maintain collections of archaeological, historical, or
6 paleontological significance which reveal the names and addresses of
7 donors of such articles of archaeological, historical, or
8 paleontological significance unless the donor approves disclosure,
9 except as the records or portions thereof may be needed to carry out
10 the purposes of the Unmarked Human Burial Sites and Skeletal Remains
11 Protection Act or the federal Native American Graves Protection and
12 Repatriation Act;

13 (15) Job application materials submitted by applicants,
14 other than finalists, who have applied for employment by any public
15 body as defined in section 84-1409. For purposes of this subdivision,
16 (a) job application materials means employment applications, resumes,
17 reference letters, and school transcripts and (b) finalist means any
18 applicant (i) who reaches the final pool of applicants, numbering
19 four or more, from which the successful applicant is to be selected,
20 (ii) who is an original applicant when the final pool of applicants
21 numbers less than four, or (iii) who is an original applicant and
22 there are four or fewer original applicants;

23 (16) Records obtained by the Public Employees Retirement
24 Board pursuant to section 84-1512;

25 (17) Social security numbers; credit card, charge card,

1 or debit card numbers and expiration dates; and financial account
2 numbers supplied to state and local governments by citizens; ~~and~~

3 (18) Information exchanged between a jurisdictional
4 utility and city pursuant to section 66-1867; and -

5 (19) Probation records pursuant to section 29-2263.

6 Sec. 3. Original section 29-2263, Reissue Revised
7 Statutes of Nebraska, and section 84-712.05, Revised Statutes
8 Supplement, 2011, are repealed.