

CHAPTER.....

AN ACT relating to state government; requiring a state agency, under certain circumstances, to provide notice to an officer, employee or contractor of the agency when the agency accesses or causes to be accessed a computer assigned or loaned to the officer, employee or contractor; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires a state agency that uses computers to create a written policy setting forth the appropriate uses of the agency’s computers and to provide a copy of the written policy to each employee of the agency. (NRS 242.300) Existing law makes unlawful certain acts regarding computers and information services. (NRS 205.473-205.513) Pursuant to these existing provisions, an employee is presumed to have the authority to access and use a computer, system or network owned or operated by his employer. (NRS 205.509)

This bill requires a state agency to notify an officer, employee or contractor of the agency if the agency accesses or causes to be accessed a computer assigned or loaned to the officer, employee or contractor. The notice may be provided either before or after the access occurs, but not more than 48 hours before or 48 hours after the access occurs.

This bill provides three exceptions to the requirement for notice. The first exception applies to instances of access that occur during internal agency investigations and investigations conducted by a law enforcement agency. The second exception applies to instances of access that occur in the course of regular or routine maintenance of a state agency’s computers. The third exception allows a state agency to access a computer without providing notice if the state agency has adopted a procedure for recording certain information concerning the access in a log. The log and its contents are confidential and not subject to inspection as public records, but must be disclosed upon the order of a court of competent jurisdiction.

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

Section 1. Chapter 281 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, a state agency that accesses or causes to be accessed a computer of the state agency that has been assigned or loaned by the state agency to an officer, employee or contractor for his exclusive or routine use in carrying out the duties of his position shall notify the officer, employee or contractor of such access.

2. The notice of access required pursuant to subsection 1 must be provided in a uniform and understandable format. The notice may be provided before or after such access occurs, but not more than 48 hours before or 48 hours after such access occurs.

3. The head of a state agency, any state officer to whom the head of the state agency reports or the appointee or designee of

either may authorize the access of a computer of the state agency without providing the notice of access otherwise required by subsections 1 and 2:

(a) If the access occurs during the course of:

(1) An internal investigation which is conducted within the state agency by the personnel of the state agency as authorized by law and any information concerning such access is kept in a file maintained by the state agency pertaining to the investigation; or

(2) An investigation which is conducted by a state or federal law enforcement agency.

(b) Except as otherwise provided in subsection 5, if the access occurs in the course of regular or routine maintenance conducted by an employee of the state agency whose duties include the regular or routine maintenance of the computers of the state agency and the state agency has adopted by regulation and implemented the procedure set forth in subsection 4.

(c) If a state agency has adopted by regulation the procedure set forth in subsection 4 and the access occurs after recording the information required pursuant to subsection 4.

4. A state agency may adopt by regulation a procedure to record access to computers of the state agency in a log maintained by the state agency for that purpose. If a state agency adopts such a procedure, the procedure must include, without limitation, a requirement for the recording of the following information concerning the access in the log:

(a) The date on which the access will occur and, if known, the time at which the access will occur on that date;

(b) As determined by the officer, appointee or designee who authorizes the access, a reasonable explanation of the exigent circumstances or other relevant considerations which justify accessing the computer without the knowledge of the officer, employee or contractor to whom the agency has assigned or loaned the computer;

(c) The name of each person who will be authorized or required to perform the access;

(d) The name of each person who will be allowed to examine information stored on the computer or retrieved from the computer; and

(e) The name of each person who will be authorized or required to archive, maintain, store, transfer, transmit or destroy information retrieved from the computer.

↳ The log described in this subsection, and any entries in that log, are confidential and not public books or records within the meaning of NRS 239.010, but must be disclosed upon the lawful order of a court of competent jurisdiction.

5. *If an employee discovers evidence of inappropriate use while accessing a computer to perform regular or routine maintenance:*

(a) *The employee shall provide the details of the alleged inappropriate use to the officer, appointee or designee who authorized the access, and to any other appropriate personnel of the state agency; and*

(b) *Information concerning the access must be recorded in the log maintained by the state agency.*

6. *Each state agency that has adopted a policy for the use of the computers of the state agency shall adopt policies and procedures for responding to reports of the inappropriate use of those computers, including, without limitation, provisions relating to the transfer, transmission and destruction of information.*

7. *As used in this section:*

(a) *“Access” includes, without limitation, adding, copying, deleting, manipulating or observing the files or other information stored on a computer, whether such actions are carried out directly or remotely.*

(b) *“Inappropriate use” means the use of a computer of a state agency in a manner that:*

(1) *If the state agency is an agency of the Executive Branch of State Government, violates the written policy created by the agency pursuant to NRS 242.300.*

(2) *If the state agency is an agency of the Legislative or Judicial Branch of State Government, violates the policy, if any, established by that agency for the use of the computers of the agency.*

(3) *Violates any state or federal law.*

(c) *“State agency” means an agency, bureau, board, commission, department, division or any other unit of the Executive, Legislative or Judicial Branches of State Government.*

