

ASSEMBLY BILL NO. 621—COMMITTEE ON JUDICIARY

MARCH 19, 1999

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning central repository for Nevada records of criminal history. (BDR 14-545)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: 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 the central repository for Nevada records of criminal history; requiring certain agencies of criminal justice to submit certain records to the central repository for Nevada records of criminal history; authorizing the central repository to disseminate information contained in the central repository by electronic means; making various other changes concerning the central repository for Nevada records of criminal history; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 179.275 is hereby amended to read as follows:
2 179.275 Where the court orders the sealing of a record pursuant to
3 NRS 179.245, 179.255 or 453.3365, a copy of the order must be sent to
4 ~~each~~ :
5 1. ***The central repository for Nevada records of criminal history; and***
6 2. ***Each*** public or private company, agency or official named in the
7 order, and that person shall seal the records in his custody which relate to
8 the matters contained in the order, shall advise the court of his compliance,
9 and shall then seal the order.
10 **Sec. 2.** NRS 179A.070 is hereby amended to read as follows:
11 179A.070 1. “Record of criminal history” means information
12 contained in records collected and maintained by agencies of criminal
13 justice, the subject of which is a natural person, consisting of descriptions
14 which identify the subject and notations of ***summons in a criminal action,***
15 ***warrants,*** arrests, ~~detention,~~ ***citations for misdemeanors issued pursuant***

1 *to NRS 171.1773, citations issued for violations of NRS 484.379 and*
2 *484.3795, detentions, decisions of a district attorney or the attorney*
3 *general not to prosecute the subject, indictments, informations or other*
4 *formal criminal charges and dispositions of charges, including , without*
5 *limitation, dismissals, acquittals, convictions, sentences, information set*
6 *forth in section 7 of this act concerning an offender in prison, any post-*
7 *conviction relief, correctional supervision occurring in Nevada,*
8 *information concerning the status of an offender on parole or probation,*
9 *and information concerning a convicted person who has registered as such*
10 *pursuant to chapter 179C of NRS. The term includes only information*
11 *contained in ~~memoranda~~ a record, maintained in written or electronic*
12 *form, of a formal ~~transactions~~ transaction between a person and an*
13 *agency of criminal justice in this state ~~[- The term is intended to be~~*
14 *equivalent to the phrase “criminal history record information” as used in*
15 *federal regulations.] , including, without limitation, the fingerprints of a*
16 *person who is arrested and taken into custody and of a person who is*
17 *placed on parole or probation and supervised by the division of parole*
18 *and probation of the department.*
19 2. “Record of criminal history” does not include:
20 (a) Investigative or intelligence information, reports of crime or other
21 information concerning specific persons collected in the course of the
22 enforcement of criminal laws ; ~~[-]~~
23 (b) Information concerning juveniles ; ~~[-]~~
24 (c) Posters, announcements or lists intended to identify fugitives or
25 wanted persons and aid in their apprehension ; ~~[-]~~
26 (d) Original records of entry maintained by agencies of criminal justice
27 if the records are chronological and not cross-indexed ; ~~[in any other way.]~~
28 (e) Records of application for and issuance, suspension, revocation or
29 renewal of occupational licenses, including , *without limitation*, permits to
30 work in the gaming industry ~~[-]~~
31 ~~-(f) Court[-]~~ ;
32 (f) *Except as otherwise provided in subsection 1, court* indices and
33 records of public judicial proceedings, court decisions and opinions, and
34 information disclosed during public judicial proceedings ; ~~[-]~~
35 (g) ~~Records~~ *Except as otherwise provided in subsection 1, records* of
36 traffic violations constituting misdemeanors ; ~~[-]~~
37 (h) Records of traffic offenses maintained by the department to regulate
38 the issuance, suspension, revocation or renewal of drivers’ or other
39 operators’ licenses ; ~~[-]~~
40 (i) Announcements of actions by the state board of pardons
41 commissioners and the state board of parole commissioners, except
42 information concerning the status of an offender on parole or probation ~~[-]~~ ;
43 *or*

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

Sec. 3. NRS 179A.075 is hereby amended to read as follows:

179A.075 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 and any other agency dealing with crime or delinquency of children shall:

(a) Collect and maintain records, reports and compilations of statistical data required by the department; and

(b) Submit the information collected to the central repository in the manner recommended by the advisory committee and approved by the director of the department.

3. Each agency of criminal justice shall submit the information relating to sexual offenses and other records of criminal history *that it ~~collects,~~ creates or issues,* and any information in its possession relating to the genetic markers of the blood and the secretor status of the saliva of a person who is convicted of sexual assault or any other sexual offense, to the division in the manner prescribed by the director of the department. ~~A report of disposition~~ *The information* must be submitted to the division:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

(c) In the manner prescribed by the director of the department, within ~~30 days after the date of disposition.~~ *the period prescribed by the director of the department.* 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.

4. The division shall ~~it~~, *in the manner prescribed by the director of the department:*

(a) Collect, maintain and arrange all information submitted to it relating to:

(1) Sexual offenses and other records of criminal history; and

(2) The genetic markers of the blood and the secretor status of the saliva of a person who is convicted of sexual assault or any other sexual offense.

(b) ~~Use~~ *When practicable, use* a record of the ~~subject's fingerprints~~ *personal identifying information of a subject* as the basis for any records maintained regarding him.

(c) Upon request during a state of emergency proclaimed pursuant to NRS 414.070, provide the information that is contained in the central

1 repository to the state disaster identification team of the division of
2 emergency management of the department of motor vehicles and public
3 safety.

4 5. The division may:

5 (a) Disseminate any information which is contained in the central
6 repository to any other agency of criminal justice;

7 (b) Enter into cooperative agreements with federal and state repositories
8 to facilitate exchanges of ~~{such information;}~~ *information that may be*
9 *disseminated pursuant to paragraph (a);* and

10 (c) Request of and receive from the Federal Bureau of Investigation
11 information on the background and personal history of any person ~~{:}~~
12 *whose record of fingerprints the central repository submits to the Federal*
13 *Bureau of Investigation and:*

14 (1) Who has applied to any agency of the ~~{state}~~ *State of Nevada* or
15 any political subdivision *thereof* for a license which it has the power to
16 grant or deny;

17 (2) With whom any agency of the ~~{state}~~ *State of Nevada* or any
18 political subdivision *thereof* intends to enter into a relationship of
19 employment or a contract for personal services;

20 (3) About whom any agency of the ~~{state}~~ *State of Nevada* or any
21 political subdivision *thereof* has a legitimate need to have accurate
22 personal information for the protection of the agency or the persons within
23 its jurisdiction; or

24 (4) For whom such information is required to be obtained pursuant to
25 NRS 449.179.

26 6. The central repository shall:

27 (a) Collect and maintain records, reports and compilations of statistical
28 data submitted by any agency pursuant to subsection 2.

29 (b) Tabulate and analyze all records, reports and compilations of
30 statistical data received pursuant to this section.

31 (c) Disseminate to federal agencies engaged in the collection of
32 statistical data relating to crime information which is contained in the
33 central repository.

34 (d) Investigate the criminal history of any person who:

35 (1) Has applied to the superintendent of public instruction for a
36 license;

37 (2) Has applied to a county school district for employment; or

38 (3) Is employed by a county school district,
39 and notify the superintendent of each county school district and the
40 superintendent of public instruction if the investigation of the central
41 repository indicates that the person has been convicted of a violation of
42 NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a
43 felony or any offense involving moral turpitude.

1 (e) Upon discovery, notify the superintendent of each county school
2 district by providing him with a list of all persons:

3 (1) Investigated pursuant to paragraph (d); or

4 (2) Employed by a county school district whose fingerprints were sent
5 previously to the central repository for investigation,
6 who the central repository's records indicate have been convicted of a
7 violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or
8 convicted of a felony or any offense involving moral turpitude since the
9 central repository's initial investigation. The superintendent of each county
10 school district shall determine whether further investigation or action by the
11 district is appropriate.

12 (f) Investigate the criminal history of each person who submits
13 fingerprints or has his fingerprints submitted pursuant to NRS 449.176 or
14 449.179.

15 (g) On or before July 1 of each year, prepare and present to the governor
16 a printed annual report containing the statistical data relating to crime
17 received during the preceding calendar year. Additional reports may be
18 presented to the governor throughout the year regarding specific areas of
19 crime if they are recommended by the advisory committee and approved by
20 the director of the department.

21 (h) On or before ~~January 31~~ **July 1** of each ~~odd-numbered~~ year,
22 prepare and submit to the director of the legislative counsel bureau, for
23 submission to the legislature, **or the legislative commission when the**
24 **legislature is not in regular session**, a report containing statistical data
25 about domestic violence in this state.

26 (i) Identify and review the collection and processing of statistical data
27 relating to criminal justice and **the** delinquency of children by any agency
28 identified in subsection 2, and make recommendations for any necessary
29 changes in the manner of collecting and processing statistical data by any
30 such agency.

31 7. The central repository may:

32 (a) At the recommendation of the advisory committee and in the manner
33 prescribed by the director of the department, disseminate compilations of
34 statistical data and publish statistical reports relating to crime or **the**
35 delinquency of children.

36 (b) Charge a reasonable fee for any publication or special report it
37 distributes relating to data collected pursuant to this section. The central
38 repository may not collect such a fee from an agency of criminal justice,
39 any other agency dealing with crime or **the** delinquency of children which
40 is required to submit information pursuant to subsection 2 or the state
41 disaster identification team of the division of emergency management of the
42 department of motor vehicles and public safety. All money collected

1 pursuant to this paragraph must be used to pay for the cost of operating the
2 central repository.

3 *(c) In the manner prescribed by the director of the department, use*
4 *electronic means to receive and disseminate information contained in the*
5 *central repository that it is authorized to disseminate pursuant to the*
6 *provisions of this chapter.*

7 8. As used in this ~~section, “advisory”~~ **section:**

8 (a) **“Advisory committee”** means the committee established by the
9 director of the department pursuant to NRS 179A.078.

10 (b) **“Personal identifying information”** means any information
11 *designed, commonly used or capable of being used, alone or in*
12 *conjunction with any other information, to identify a person, including,*
13 *without limitation:*

14 (1) *The name, driver’s license number, social security number, date*
15 *of birth and photograph or computer generated image of a person; and*

16 (2) *The fingerprints, voiceprint, retina image and iris image of a*
17 *person.*

18 **Sec. 4.** NRS 62.350 is hereby amended to read as follows:

19 62.350 1. The fingerprints of a child must be taken if the child is in
20 custody for an act that, if committed by an adult:

21 (a) Would be a felony, a gross misdemeanor or a sexual offense; or

22 (b) Would be a misdemeanor, and the act involved:

23 (1) The use or threatened use of force or violence against the victim;

24 or

25 (2) The possession, use or threatened use of a firearm or a deadly
26 weapon.

27 2. The fingerprints of a child who is in custody but who is not subject
28 to the provisions of subsection 1 may be taken if a law enforcement officer
29 finds latent fingerprints during the investigation of an offense and the
30 officer has reason to believe that the latent fingerprints are those of the
31 child. The officer shall use the fingerprints taken from the child ~~for the~~
32 ~~purpose of making~~ **to make** an immediate comparison with the latent
33 fingerprints. If the comparison is:

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

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

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

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

41 3. Fingerprints that are taken from a child pursuant to the provisions of
42 this

section:

1 (a) May be retained in a local file or a local system for the automatic
2 retrieval of fingerprints if they are retained under special security measures
3 that limit inspection of the fingerprints to law enforcement officers who are
4 conducting criminal investigations. If the child from whom the fingerprints
5 are taken subsequently is not adjudicated delinquent, the parent or guardian
6 of the child or, when the child becomes at least 18 years of age, the child,
7 may petition the court for the removal of the fingerprints from any such
8 local file or local system.

9 (b) Must be submitted to the central repository for Nevada records of
10 criminal history if the child is adjudicated delinquent for an act that, if
11 committed by an adult, would be a felony or sexual offense, and may be
12 submitted to the central repository for any other act. *Any such fingerprints*
13 *submitted to the central repository must be submitted with a description*
14 *of the child and the unlawful act, if any, that the child committed.* The
15 central repository shall retain the fingerprints *and such information* of the
16 child under special security measures that limit inspection of the
17 fingerprints *and such information* to law enforcement officers who are
18 conducting criminal investigations and to officers and employees of the
19 central repository who are assisting law enforcement officers with criminal
20 investigations or who are conducting research or performing a statistical
21 analysis.

22 (c) Must not be submitted to the Federal Bureau of Investigation unless
23 the child is adjudicated delinquent for an act that, if committed by an adult,
24 would be a felony or a sexual offense.

25 4. A child who is in custody must be photographed for the purpose of
26 identification. Except as otherwise provided in this subsection, the
27 photographs of the child must be kept in the file pertaining to the child
28 under special security measures that limit inspection of the photographs to
29 law enforcement officers who are conducting criminal investigations. If a
30 court subsequently determines that the child is not delinquent, the court
31 shall order the photographs to be destroyed.

32 5. Any person who willfully violates any provision of this section is
33 guilty of a misdemeanor.

34 **Sec. 5.** NRS 202.366 is hereby amended to read as follows:

35 202.366 1. Upon receipt by a sheriff of an application for a permit,
36 the sheriff shall conduct an investigation of the applicant to determine if he
37 is eligible for a permit. In conducting the investigation, the sheriff shall
38 forward a complete set of the applicant's fingerprints to the *central*
39 *repository for* Nevada ~~[highway patrol division of the department]~~ *records*
40 *of criminal history* and the Federal Bureau of Investigation for a report
41 concerning the criminal history of the applicant. The sheriff shall issue a
42 permit to the applicant unless he is not qualified to possess a handgun
43 ~~[under]~~ *pursuant to* state or federal law or is not otherwise qualified to

1 obtain a permit pursuant to NRS 202.3653 to 202.369, inclusive, or the
2 regulations adopted pursuant thereto.

3 2. To assist the sheriff in conducting his investigation, any local law
4 enforcement agency, including the sheriff of any county, may voluntarily
5 submit to the sheriff a report or other information concerning the criminal
6 history of an applicant.

7 3. Within 120 days after a complete application for a permit is
8 submitted, the sheriff to whom the application is submitted shall grant or
9 deny the application. If the application is denied, the sheriff shall send the
10 applicant written notification setting forth the reasons for the denial. If the
11 application is granted, the sheriff shall provide the applicant with a permit
12 containing a colored photograph of the applicant and containing such other
13 information as may be prescribed by the department. The permit must be in
14 substantially the following form:

15
16 NEVADA CONCEALED FIREARM PERMIT

17
18 County Permit Number.....
19 Expires..... Date of Birth
20 Height Weight.....
21 Name..... Address
22 City Zip
23 Photograph
24 Signature.....
25 Issued by
26 Date of Issue
27 Make, model and caliber of firearm authorized

28
29 4. Unless suspended or revoked by the sheriff who issued the permit, a
30 permit expires on the fifth anniversary of the permittee's birthday,
31 measured from the birthday nearest the date of issuance or renewal. If the
32 date of birth of a permittee is on February 29 in a leap year, for the
33 purposes of NRS 202.3653 to 202.369, inclusive, his date of birth shall be
34 deemed to be on February 28.

35 **Sec. 6.** NRS 202.3687 is hereby amended to read as follows:

36 202.3687 1. The provisions of NRS 202.3653 to 202.369, inclusive,
37 do not prohibit a sheriff from issuing a temporary permit to carry a
38 concealed firearm. A temporary permit may include, but is not limited to,
39 provisions specifying the period for which the permit is valid.

40 2. Each sheriff who issues a permit pursuant to the provisions of NRS
41 202.3653 to 202.369, inclusive, shall ~~[-upon request by the department,]~~
42 provide such information concerning the permit and the person to whom it

1 is issued ~~as is deemed necessary by the department for inclusion in~~ to the
2 central repository for Nevada records of criminal history.

3 **Sec. 7.** Chapter 209 of NRS is hereby amended by adding thereto a
4 new section to read as follows:

5 *The department shall collect and submit to the central repository for*
6 *Nevada records of criminal history:*

7 *1. A record of:*

8 *(a) The name and fingerprints of each offender serving a term of*
9 *imprisonment in an institution or facility of the department;*

10 *(b) The length of the term of imprisonment of the offender, including,*
11 *without limitation, the number of days served during a period of pretrial*
12 *detention, if any; and*

13 *(c) The date of admission of the offender; and*

14 *2. A notice of the release of each offender.*

15 **Sec. 8.** This act becomes effective upon passage and approval.