

ASSEMBLY BILL NO. 681—COMMITTEE ON HEALTH  
AND HUMAN SERVICES

MARCH 22, 1999

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing investigations of criminal histories of certain persons employed by or associated with medical facilities and certain facilities for dependents. (BDR 40-1612)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: No.

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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 health care facilities; requiring the investigation of the criminal histories of prospective operators and certain employees, independent contractors and volunteers of medical facilities and certain facilities for the dependent under certain circumstances; removing the prohibition against hiring or contracting with persons at certain health care facilities who have committed certain crimes; 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 449.060 is hereby amended to read as follows:  
2     449.060   1. Each license issued pursuant to NRS 449.001 to 449.240,  
3     inclusive, expires on December 31 following its issuance and is renewable  
4     for 1 year upon reapplication and payment of the fee provided in NRS  
5     449.040 and 449.050 unless the health division finds, after an  
6     investigation, that the facility has not:  
7     (a) Satisfactorily complied with the provisions of NRS 449.001 to  
8     449.240, inclusive, or the standards and regulations adopted by the board;  
9     (b) Obtained the approval of the director of the department of human  
10    resources before undertaking a project, if such approval is required by  
11    NRS 439A.100; or  
12    (c) Conformed to all applicable local zoning regulations.  
13    2. Each reapplication for ~~[an agency to provide nursing in the home, a~~  
14    ~~residential facility for intermediate care,]~~ a ***renewal of a license to operate***

1 **a medical** facility ~~[for skilled nursing or a residential]~~ **or a** facility for  
2 ~~[groups]~~ **the dependent** must include, without limitation, a statement that  
3 the facility ~~[or agency]~~ is in compliance with the provisions of NRS  
4 449.173 to 449.188, inclusive.

5 **Sec. 2.** NRS 449.176 is hereby amended to read as follows:

6 449.176 1. Each applicant for a license to operate a **medical facility**  
7 **or a** facility for ~~[intermediate care, facility for skilled nursing or residential~~  
8 ~~facility for groups]~~ **the dependent** shall submit to the central repository for  
9 Nevada records of criminal history two complete sets of fingerprints for  
10 submission to the Federal Bureau of Investigation for its report.

11 2. The central repository for Nevada records of criminal history shall  
12 determine whether the applicant has been convicted of a crime ~~[listed in~~  
13 ~~paragraph (a) of subsection 1 of]~~ **set forth in** NRS 449.188 and  
14 immediately inform the administrator of the facility, if any, and the health  
15 division of whether the applicant has been convicted of such a crime.

16 **Sec. 3.** NRS 449.179 is hereby amended to read as follows:

17 449.179 1. Except as otherwise provided in subsection ~~[4,]~~ **2**, within  
18 10 days after hiring an employee ~~[]~~ **or volunteer or contracting with an**  
19 **independent contractor**, the administrator of, or the person licensed to  
20 operate, ~~[an agency to provide nursing in the home,]~~ a **medical** facility ~~[for~~  
21 ~~intermediate care,]~~ **or** a facility for ~~[skilled nursing or a residential facility~~  
22 ~~for groups]~~ **the dependent** shall:

23 (a) Obtain a written statement from the employee , **independent**  
24 **contractor or volunteer** stating whether he has been convicted of any  
25 crime ~~[listed]~~ **set forth** in NRS 449.188;

26 (b) Obtain a verbal and written confirmation of the information  
27 contained in the written statement obtained pursuant to paragraph (a);

28 (c) Obtain from the employee , **independent contractor or volunteer**  
29 two sets of fingerprints and a written authorization to forward the  
30 fingerprints to the central repository for Nevada records of criminal history  
31 for submission to the Federal Bureau of Investigation for its report; and

32 (d) Submit to the central repository for Nevada records of criminal  
33 history the fingerprints obtained pursuant to paragraph (c).

34 2. The **administrator of, or the person licensed to operate, a medical**  
35 **facility or a facility for the dependent is not required to obtain the**  
36 **information described in subsection 1 from an employee, independent**  
37 **contractor or volunteer who:**

38 (a) **Will not provide treatment, care or services to clients of the**  
39 **facility; and**

40 (b) **Produces proof that an investigation of his criminal history has**  
41 **been conducted by the central repository for Nevada records of criminal**  
42 **history within the immediately preceding 6 months and the investigation**

1 *did not indicate that the employee, independent contractor or volunteer*  
2 *had been convicted of any crime set forth in NRS 449.188.*

3 *3. The administrator of, or the person licensed to operate, a medical*  
4 *facility or a facility for the dependent shall ensure the criminal history of*  
5 *each employee, independent contractor or volunteer at the facility is*  
6 *investigated at least once every 5 years. The administrator of, or the*  
7 *person licensed to operate, the facility shall:*

8 *(a) If the facility does not have the fingerprints of the employee,*  
9 *independent contractor or volunteer on file, obtain two sets of*  
10 *fingerprints from the employee, independent contractor or volunteer;*

11 *(b) Obtain written authorization from the employee, independent*  
12 *contractor or volunteer to forward the fingerprints on file or obtained*  
13 *pursuant to paragraph (a) to the central repository for Nevada records of*  
14 *criminal history for submission to the Federal Bureau of Investigation*  
15 *for its report; and*

16 *(c) Submit the fingerprints to the central repository for Nevada*  
17 *records of criminal history.*

18 *4. Upon receiving fingerprints submitted pursuant to subsection 1 or*  
19 *3, the central repository for Nevada records of criminal history shall*  
20 *determine whether the employee, independent contractor or volunteer*  
21 *has been convicted of a crime listed in NRS 449.188 and immediately*  
22 ~~*inform*~~ *submit a report of its findings to* the health division, the  
23 administrator of, and the person licensed to operate, the ~~*agency or*~~ facility  
24 at which the person ~~*is employed or whether or not the employee has been*~~  
25 ~~*convicted of such a crime.*~~  
26 ~~*—3.1 works.*~~

27 *5. The central repository for Nevada records of criminal history may*  
28 *impose a fee upon ~~an agency or~~ a facility that submits fingerprints*  
29 *pursuant to this section for the reasonable cost of the investigation ~~and report.~~ The*  
30 ~~*agency or*~~ *and report. The* facility may recover from the employee,  
31 *independent contractor or volunteer* not more than one-half of the fee  
32 imposed by the central repository. If the ~~*agency or*~~ facility requires the  
33 employee, *independent contractor or volunteer* to pay for any part of the  
34 fee imposed by the central repository, it shall allow the employee,  
35 *independent contractor or volunteer* to pay the amount through periodic  
36 payments.

37 ~~*[4.—The provisions of this section do not apply to an employee who has*~~  
38 ~~*undergone an investigation of his criminal background as a condition to*~~  
39 ~~*receiving a professional license in this state.]*~~

40 **Sec. 4.** NRS 449.182 is hereby amended to read as follows:

41 449.182 Each ~~*agency to provide nursing in the home,*~~ *medical*  
42 *facility and* facility for ~~*intermediate care, facility for skilled nursing and*~~  
43 ~~*residential facility for groups*~~ *the dependent* shall maintain accurate

1 records of the information concerning its employees , **independent**  
2 **contractors and volunteers** collected pursuant to NRS 449.179, and shall  
3 maintain a copy of the fingerprints submitted to the central repository for  
4 Nevada records of criminal history ~~and~~ **or** proof **that** it submitted two  
5 sets of fingerprints to the central repository for its report. These records  
6 must be made available for inspection by the health division at any  
7 reasonable time and copies thereof must be furnished to the health division  
8 upon request.

9 **Sec. 5.** NRS 449.185 is hereby amended to read as follows:

10 449.185 1. Upon receiving ~~information~~ **a report** from the central  
11 repository for Nevada records of criminal history pursuant to NRS  
12 **179A.075 or** 449.179, or evidence from any other source, that **an**  
13 **employee, independent contractor or volunteer of** a ~~person who is~~  
14 ~~employed at an agency to provide nursing in the home,~~ **medical facility or**  
15 a facility for ~~intermediate care, a facility for skilled nursing or a~~  
16 ~~residential facility for groups~~ **the dependent** has been convicted of a crime  
17 ~~listed in paragraph (a) of subsection 1 of~~ **set forth in** NRS 449.188, the  
18 administrator of, or the person licensed to operate, the ~~agency or facility~~  
19 ~~shall~~ **facility may** terminate the employment **or contract** of that person  
20 after allowing him time to correct the information as required pursuant to  
21 subsection 2.

22 2. If an employee , **independent contractor or volunteer** believes that  
23 the information provided by the central repository is incorrect, he may  
24 immediately inform the ~~agency or facility. An agency or~~ **facility. A**  
25 facility that is so informed shall give an employee , **independent**  
26 **contractor or volunteer** a reasonable amount of time of not less than 30  
27 days to correct the information received from the central repository before  
28 terminating the employment **or contract** of the person pursuant to  
29 subsection 1.

30 3. ~~An agency or~~ **A** facility that has complied with NRS 449.179 may  
31 not be held civilly or criminally liable based solely upon the ground that  
32 the ~~agency or~~ facility allowed an employee , **independent contractor or**  
33 **volunteer** to work:

34 (a) Before it received the ~~information~~ **report** concerning the employee  
35 , **independent contractor or volunteer** from the central repository;

36 (b) During any period required pursuant to subsection 2 to allow the  
37 employee , **independent contractor or volunteer** to correct ~~such~~  
38 ~~information;~~ **the report;**

39 (c) Based on the ~~information~~ **report** received from the central  
40 repository, if the ~~information~~ **report** received from the central repository  
41 was inaccurate; or

42 (d) Any combination thereof.

- 1 ~~{An agency or}~~ A facility may be held liable for any other conduct
- 2 determined to be negligent or unlawful.

1     **Sec. 6.** NRS 449.188 is hereby amended to read as follows:

2     449.188 ~~{1.}~~ In addition to the grounds ~~{listed}~~ **set forth** in NRS  
3     449.160, the health division may deny a license to operate a **medical**  
4     facility ~~{for intermediate care,}~~ **or a** facility for ~~{skilled nursing or~~  
5     ~~residential facility for groups}~~ **the dependent** to an applicant or may  
6     suspend or revoke the license of a licensee to operate such a facility if ~~;~~:

7     ~~—(a) The~~ **the** applicant or licensee has been convicted of:

8     ~~{(1)}~~ **1.** Murder, voluntary manslaughter or mayhem;

9     ~~{(2)}~~ **2.** Assault with intent to kill or to commit sexual assault or  
10    mayhem;

11    ~~{(3)}~~ **3.** Sexual assault, statutory sexual seduction, incest, lewdness,  
12    indecent exposure or any other sexually related crime;

13    ~~{(4)}~~ **4.** Abuse or neglect of a child or contributory delinquency;

14    ~~{(5)}~~ **5.** A violation of any federal or state law regulating the  
15    possession, distribution or use of any controlled substance or any  
16    dangerous drug as defined in chapter 454 of NRS, within the past 7 years;

17    ~~{(6)}~~ **6.** Any offense involving fraud, theft, embezzlement,  
18    burglary, robbery, fraudulent conversion or misappropriation of property,  
19    within the immediately preceding 7 years; or

20    ~~{(7)}~~ **7.** Any other felony involving the use of a firearm or other  
21    deadly weapon, within the immediately preceding 7 years. ~~;~~ **or**

22    ~~—(b) The licensee has continued to employ a person who has been~~  
23    ~~convicted of a crime listed in paragraph (a).~~

24    ~~—2.— In addition to the grounds listed in NRS 449.160, the health division~~  
25    ~~may deny a license to operate an agency to provide nursing in the home to~~  
26    ~~an applicant or may suspend or revoke the license of a licensee to operate~~  
27    ~~such an agency if the licensee has continued to employ a person who has~~  
28    ~~been convicted of a crime listed in paragraph (a) of subsection 1.~~

29     **Sec. 7.** NRS 179A.075 is hereby amended to read as follows:

30     179A.075 1. The central repository for Nevada records of criminal  
31     history is hereby created within the Nevada highway patrol division of the  
32     department.

33     2. Each agency of criminal justice and any other agency dealing with  
34     crime or delinquency of children shall:

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

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

40     3. Each agency of criminal justice shall submit the information  
41     relating to sexual offenses and other records of criminal history it collects,  
42     and any information in its possession relating to the genetic markers of the  
43     blood and the secretor status of the saliva of a person who is convicted of

1 sexual assault or any other sexual offense, to the division in the manner  
2 prescribed by the director of the department. A report of disposition must  
3 be submitted to the division:

- 4 (a) Through an electronic network;
- 5 (b) On a medium of magnetic storage; or
- 6 (c) In the manner prescribed by the director of the department,  
7 within 30 days after the date of disposition. If an agency has submitted a  
8 record regarding the arrest of a person who is later determined by the  
9 agency not to be the person who committed the particular crime, the  
10 agency shall, immediately upon making that determination, so notify the  
11 division. The division shall delete all references in the central repository  
12 relating to that particular arrest.

13 4. The division shall:

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

- 16 (1) Sexual offenses and other records of criminal history; and
- 17 (2) The genetic markers of the blood and the secretor status of the  
18 saliva of a person who is convicted of sexual assault or any other sexual  
19 offense.

- 20 (b) Use a record of the subject's fingerprints as the basis for any records  
21 maintained regarding him.

- 22 (c) Upon request during a state of emergency proclaimed pursuant to  
23 NRS 414.070, provide the information that is contained in the central  
24 repository to the state disaster identification team of the division of  
25 emergency management of the department of motor vehicles and public  
26 safety.

27 5. The division may:

- 28 (a) Disseminate any information which is contained in the central  
29 repository to any other agency of criminal justice;
- 30 (b) Enter into cooperative agreements with federal and state repositories  
31 to facilitate exchanges of such information; and
- 32 (c) Request of and receive from the Federal Bureau of Investigation  
33 information on the background and personal history of any person:
  - 34 (1) Who has applied to any agency of the state or any political  
35 subdivision for a license which it has the power to grant or deny;
  - 36 (2) With whom any agency of the state or any political subdivision  
37 intends to enter into a relationship of employment or a contract for  
38 personal services;
  - 39 (3) About whom any agency of the state or any political subdivision  
40 has a legitimate need to have accurate personal information for the  
41 protection of the agency or the persons within its jurisdiction; or
  - 42 (4) For whom such information is required to be obtained pursuant to

43 NRS

449.179.

- 1     6. The central repository shall:
- 2     (a) Collect and maintain records, reports and compilations of statistical
- 3     data submitted by any agency pursuant to subsection 2.
- 4     (b) Tabulate and analyze all records, reports and compilations of
- 5     statistical data received pursuant to this section.
- 6     (c) Disseminate to federal agencies engaged in the collection of
- 7     statistical data relating to crime information which is contained in the
- 8     central repository.
- 9     (d) Investigate the criminal history of any person who:
- 10    (1) Has applied to the superintendent of public instruction for a
- 11    license;
- 12    (2) Has applied to a county school district for employment; or
- 13    (3) Is employed by a county school district,
- 14    and notify the superintendent of each county school district and the
- 15    superintendent of public instruction if the investigation of the central
- 16    repository indicates that the person has been convicted of a violation of
- 17    NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a
- 18    felony or any offense involving moral turpitude.
- 19    (e) Upon discovery, notify the superintendent of each county school
- 20    district by providing him with a list of all persons:
- 21    (1) Investigated pursuant to paragraph (d); or
- 22    (2) Employed by a county school district whose fingerprints were
- 23    sent previously to the central repository for investigation,
- 24    who the central repository's records indicate have been convicted of a
- 25    violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or
- 26    convicted of a felony or any offense involving moral turpitude since the
- 27    central repository's initial investigation. The superintendent of each county
- 28    school district shall determine whether further investigation or action by
- 29    the district is appropriate.
- 30    (f) *Submit a report to the administrator of, or person licensed to*
- 31    *operate, a medical facility or facility for the dependent of any employee,*
- 32    *independent contractor or volunteer who provides treatment, care or*
- 33    *services to clients of the facility and whose fingerprints were sent*
- 34    *previously to the central repository for investigation, who the central*
- 35    *repository's records indicate has been convicted of a violation of a crime*
- 36    *set forth in NRS 449.188.*
- 37    (g) Investigate the criminal history of each person who submits
- 38    fingerprints or has his fingerprints submitted pursuant to NRS 449.176 or
- 39    449.179.
- 40    ~~(g)~~ (h) On or before July 1 of each year, prepare and present to the
- 41    governor a printed annual report containing the statistical data relating to
- 42    crime received during the preceding calendar year. Additional reports may
- 43    be presented to the governor throughout the year regarding specific areas

1 of crime if they are recommended by the advisory committee and approved  
2 by the director of the department.

3 ~~(b)~~ (i) On or before January 31 of each odd-numbered year, prepare  
4 and submit to the director of the legislative counsel bureau, for submission  
5 to the legislature, a report containing statistical data about domestic  
6 violence in this state.

7 ~~(b)~~ (j) Identify and review the collection and processing of statistical  
8 data relating to criminal justice and delinquency of children by any agency  
9 identified in subsection 2, and make recommendations for any necessary  
10 changes in the manner of collecting and processing statistical data by any  
11 such agency.

12 7. The central repository may:

13 (a) At the recommendation of the advisory committee and in the  
14 manner prescribed by the director of the department, disseminate  
15 compilations of statistical data and publish statistical reports relating to  
16 crime or delinquency of children.

17 (b) Charge a reasonable fee for any publication or special report it  
18 distributes relating to data collected pursuant to this section. The central  
19 repository may not collect such a fee from an agency of criminal justice,  
20 any other agency dealing with crime or delinquency of children which is  
21 required to submit information pursuant to subsection 2 or the state disaster  
22 identification team of the division of emergency management of the  
23 department of motor vehicles and public safety. All money collected  
24 pursuant to this paragraph must be used to pay for the cost of operating the  
25 central repository.

26 8. As used in this section, "advisory committee" means the committee  
27 established by the director of the department pursuant to NRS 179A.078.

28 **Sec. 8.** 1. Except as otherwise provided in subsection 2, the  
29 administrator of, or person licensed to operate, a medical facility or a  
30 facility for the dependent shall, before January 1, 2000, obtain from the  
31 central repository for Nevada records of criminal history a report for each  
32 employee, independent contractor and volunteer who is working at the  
33 facility on October 1, 1999, of any crimes set forth in NRS 449.188 for  
34 which the employee, independent contractor or volunteer has been  
35 convicted.

36 2. The provisions of this section do not apply to any employee,  
37 independent contractor or volunteer who is working at such a facility on  
38 October 1, 1999, for whom the report of such an investigation has been  
39 obtained by the administrator of, or the person licensed to operate, the  
40 facility after October 1, 1994.