

SENATE BILL NO. 327—COMMITTEE ON JUDICIARY

MARCH 5, 1999

Referred to Committee on Judiciary

SUMMARY—Authorizes release of certain records of criminal history to authorized agent of employer. (BDR 14-1244)

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 criminal records; authorizing the release of certain records of criminal history to the authorized agent of an employer; enacting provisions governing the dissemination of such records by an authorized agent; and providing other matters properly relating thereto.

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

Section 1. Chapter 179A of NRS is hereby amended by adding thereto
a new section to read as follows:

“Authorized agent” means a person who is:

***1. Subject to compliance with the provisions of the Fair Credit
Reporting Act, 15 U.S.C. §§ 1681 et seq.;***

***2. Authorized by an employer to disseminate information to the
employer to be used in making a decision to hire, retain, suspend or
discharge an employee, a prospective employee, a volunteer or a
prospective volunteer; and***

***3. Acting on behalf of the employer who authorized him to
disseminate information to the employer to be used in making a decision
to hire, retain, suspend or discharge an employee, a prospective
employee, a volunteer or a prospective volunteer.***

Sec. 2. NRS 179A.010 is hereby amended to read as follows:

179A.010 As used in this chapter, unless the context otherwise
requires, the words and terms defined in NRS 179A.020 to 179A.073,
inclusive, ***and section 1 of this act*** have the meanings ascribed to them in
those

sections.

1 **Sec. 3.** NRS 179A.100 is hereby amended to read as follows:

2 179A.100 1. The following records of criminal history may be
3 disseminated by an agency of criminal justice without any restriction
4 pursuant to this chapter:

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

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

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

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

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

15 (c) Reported to the central repository.

16 3. An agency of criminal justice shall disseminate to a prospective
17 employer, **or his authorized agent**, upon request, records of criminal
18 history concerning a prospective employee or volunteer which:

19 (a) Reflect convictions only; or

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

23 4. The central repository shall disseminate to a prospective or current
24 employer, **or his authorized agent**, upon request, information relating to
25 sexual offenses concerning an employee, **a** prospective employee, **a**
26 volunteer or **a** prospective volunteer who gives his written consent to the
27 release of that information.

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

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

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

37 (c) The state gaming control board.

38 (d) The state board of nursing.

39 (e) The private investigator's licensing board to investigate an applicant
40 for a license.

41 (f) A public administrator to carry out his duties as prescribed in chapter
42 253 of

NRS.

1 (g) A public guardian to investigate a ward or proposed ward or persons
2 who may have knowledge of assets belonging to a ward or proposed ward.

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

5 (i) Any public utility subject to the jurisdiction of the public utilities
6 commission of Nevada when the information is necessary to conduct a
7 security investigation of an employee or prospective employee, or to
8 protect the public health, safety or welfare.

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

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

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

20 (m) Prospective employers , *or their authorized agents*, if the person
21 who is the subject of the information has given written consent to the
22 release of that information by the agency which maintains it.

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

25 (o) The division of child and family services of the department of human
26 resources and any county agency that is operated pursuant to NRS
27 432B.325 or authorized by a court of competent jurisdiction to receive and
28 investigate reports of abuse or neglect of children and which provides or
29 arranges for protective services for such children.

30 (p) The welfare division of the department of human resources or its
31 designated representative.

32 (q) An agency of this or any other state or the Federal Government that
33 is conducting activities pursuant to Part D of Title IV of the Social Security
34 Act , ~~42~~ 42 U.S.C. §§ 651 et seq. ~~D-I~~

35 (r) The state disaster identification team of the division of emergency
36 management of the department of motor vehicles and public safety during a
37 state of emergency proclaimed pursuant to NRS 414.070.

38 6. Agencies of criminal justice in this state which receive information
39 from sources outside this state concerning transactions involving criminal
40 justice which occur outside Nevada shall treat the information as
41 confidentially as is required by the provisions of this chapter.

1 **Sec. 4.** NRS 179A.110 is hereby amended to read as follows:

2 179A.110 ~~{No}~~

3 **1. Except as otherwise provided in this section, a** person who receives
4 information relating to sexual offenses or other records of criminal history
5 pursuant to this chapter may **not** disseminate ~~{it}~~ **the information relating**
6 **to sexual offenses or other records of criminal history** further without
7 express authority of law or in accordance with a court order.

8 **2. An authorized agent may disseminate information relating to**
9 **sexual offenses or other records of criminal history to the employer on**
10 **whose behalf the authorized agent obtained the information relating to**
11 **sexual offenses or other records of criminal history.**

12 **3.** This section does not prohibit the dissemination of material by an
13 employee of the electronic or printed media in his professional capacity for
14 communication to the public.

15 **Sec. 5.** NRS 179A.130 is hereby amended to read as follows:

16 179A.130 **1.** Each agency of criminal justice ~~{which}~~ **that** maintains
17 and disseminates information relating to sexual offenses or other records of
18 criminal history ~~{must}~~ **shall** maintain a log of each dissemination of ~~{that}~~
19 information **relating to sexual offenses or other records of criminal**
20 **history** other than a dissemination of the fact that the agency has no record
21 relating to a certain person. ~~{The}~~

22 **2. An authorized agent who disseminates information relating to**
23 **sexual offenses or other records of criminal history to the employer on**
24 **whose behalf the authorized agent obtained the information relating to**
25 **sexual offenses or other records of criminal history shall maintain a log**
26 **of each dissemination of information relating to sexual offenses or other**
27 **records of criminal history.**

28 **3. A log required by subsection 1 or 2** must be maintained for at least
29 1 year after the information ~~{is}~~ **relating to sexual offenses or other**
30 **records of criminal history are** disseminated, and must contain:

31 ~~{1.}~~ **(a)** An entry showing ~~{to what}~~ **the name of the** agency or person
32 **to whom** the information relating to sexual offenses or other records of
33 criminal history were provided;

34 ~~{2.}~~ **(b)** The date on which the information ~~{was provided;~~
35 ~~—3.}~~ **relating to sexual offenses or other records of criminal history**
36 **were provided;**

37 **(c)** The **name of the** person who is the subject of the information ~~{; and~~
38 ~~—4.}~~ **relating to sexual offenses or other records of criminal history;**
39 **and**

40 **(d)** A brief description of the information **relating to sexual offenses or**
41 **other records of criminal history that were** provided.

1 **Sec. 6.** This act becomes effective upon passage and approval.

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