

ASSEMBLY BILL NO. 331—ASSEMBLYMAN NOLAN

MARCH 13, 2001

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning dissemination of records of criminal history by central repository for Nevada records of criminal history. (BDR 14-304)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: 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 criminal records; authorizing the central repository for Nevada records of criminal history to conduct investigations and to disseminate certain information concerning applicants and employees of private schools; expanding the offenses about which certain employers may obtain information concerning employees; authorizing such employers to obtain the same information about volunteers and prospective volunteers; providing a penalty; 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 179.301 is hereby amended to read as follows:
2 179.301 1. The state gaming control board and Nevada gaming
3 commission and their employees, agents and representatives may inquire
4 into and inspect any records sealed pursuant to NRS 179.245 or 179.255, if
5 the event or conviction was related to gaming, ~~for purposes of~~
6 ~~determining~~ *to determine* the suitability or qualifications of any person to
7 hold a state gaming license, manufacturer's, seller's or distributor's license
8 or gaming work permit pursuant to chapter 463 of NRS. Events and
9 convictions, if any, which are the subject of an order sealing records may
10 form the basis for recommendation, denial or revocation of those licenses
11 or work permits.
12 2. The central repository *for Nevada records of criminal history* and
13 its employees may inquire into and inspect any records sealed pursuant to
14 NRS 179.245 or 179.255 that ~~constitute information relating to sexual~~
15 ~~offenses,~~ *involve an offense listed in subsection 4 of NRS 179A.190* and
16 may notify employers of the information in accordance with NRS
17 179A.190 to 179A.240, inclusive.



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1 3. Records which have been sealed pursuant to NRS 179.245 or
2 179.255 and which are retained in the statewide registry established
3 pursuant to NRS 179B.200 may be inspected pursuant to chapter 179B of
4 NRS by an officer or employee of the central repository *for Nevada*
5 *records of criminal history* or a law enforcement officer in the regular
6 course of his duties.

7 **Sec. 2.** NRS 179A.075 is hereby amended to read as follows:

8 179A.075 1. The central repository for Nevada records of criminal
9 history is hereby created within the Nevada highway patrol division of the
10 department.

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

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

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

18 3. Each agency of criminal justice shall submit the information relating
19 to ~~sexual~~ *the* offenses *listed in subsection 4 of NRS 179A.190* and other
20 records of criminal history that it creates or issues, and any information in
21 its possession relating to the genetic markers of the blood and the secretor
22 status of the saliva of a person who is convicted of sexual assault or any
23 other sexual offense, to the division in the manner prescribed by the
24 director of the department. The information must be submitted to the
25 division:

26 (a) Through an electronic network;

27 (b) On a medium of magnetic storage; or

28 (c) In the manner prescribed by the director of the
29 department,

30 within the period prescribed by the director of the department. If an agency
31 has submitted a record regarding the arrest of a person who is later
32 determined by the agency not to be the person who committed the
33 particular crime, the agency shall, immediately upon making that
34 determination, so notify the division. The division shall delete all
35 references in the central repository relating to that particular arrest.

36 4. The division shall, in the manner prescribed by the director of the
37 department:

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

40 (1) ~~Sexual~~ *The* offenses *listed in subsection 4 of NRS 179A.190*
41 and other records of criminal history; and

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

45 (b) When practicable, use a record of the personal identifying
46 information of a subject as the basis for any records maintained regarding
47 him.

48 (c) Upon request, provide the information that is contained in the central
49 repository to the state disaster identification team of the division of



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1 emergency management of the department . ~~of motor vehicles and public~~
2 ~~safety.~~

3 5. The division may:

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

6 (b) Enter into cooperative agreements with federal and state repositories
7 to facilitate exchanges of information that may be disseminated pursuant to
8 paragraph (a); and

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

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

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

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

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

25 6. The central repository shall:

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

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

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

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

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

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

38 (3) Is employed by a county school district ~~or~~ *or a private*
39 *school,*

40 and notify the superintendent of each county school district , *the*
41 *administrator of each private school* and the superintendent of public
42 instruction if the investigation of the central repository indicates that the
43 person has been convicted of a violation of NRS 200.508, 201.230,
44 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense
45 involving moral turpitude.

46 (e) Upon discovery, notify the superintendent of each county school
47 district *or the administrator of each private school, as appropriate,* by
48 providing ~~him~~ *the superintendent or administrator* with a list of all
49 persons:



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1 (1) Investigated pursuant to paragraph (d); or
2 (2) Employed by a county school district *or a private school* whose
3 fingerprints were sent previously to the central repository for
4 investigation,
5 who the central repository's records indicate have been convicted of a
6 violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or
7 convicted of a felony or any offense involving moral turpitude since the
8 central repository's initial investigation. The superintendent of each county
9 school district *or the administrator of each private school, as applicable,*
10 shall determine whether further investigation or action by the district *or*
11 *private school, as applicable,* 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
16 governor a printed annual report containing the statistical data relating to
17 crime received during the preceding calendar year. Additional reports may
18 be presented to the governor throughout the year regarding specific areas
19 of crime if they are recommended by the advisory committee and approved
20 by the director of the department.

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

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

30 7. The central repository may:

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

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

44 (c) In the manner prescribed by the director of the department, use
45 electronic means to receive and disseminate information contained in the
46 central repository that it is authorized to disseminate pursuant to the
47 provisions of this chapter.

48 8. As used in this section:



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

3 (b) “Personal identifying information” means any information designed,
4 commonly used or capable of being used, alone or in conjunction with any
5 other information, to identify a person, including, without limitation:

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

8 (2) The fingerprints, voiceprint, retina image and iris image of a
9 person.

10 *(c) “Private school” has the meaning ascribed to it in NRS 394.103.*

11 **Sec. 3.** NRS 179A.080 is hereby amended to read as follows:

12 179A.080 The director of the department is responsible for
13 administering this chapter and may adopt regulations for that purpose. The
14 director shall:

15 1. Adopt regulations for the security of the central repository so that it
16 is adequately protected from fire, theft, loss, destruction, other hazards and
17 unauthorized access.

18 2. Adopt regulations and standards for personnel employed by
19 agencies of criminal justice in positions of responsibility for maintenance
20 and dissemination of information relating to ~~sexual~~ *the* offenses *listed in*
21 *subsection 4 of NRS 179A.190* and other records of criminal history.

22 3. Provide for audits of informational systems by qualified public or
23 private agencies, organizations or persons.

24 **Sec. 4.** NRS 179A.100 is hereby amended to read as follows:

25 179A.100 1. The following records of criminal history may be
26 disseminated by an agency of criminal justice without any restriction
27 pursuant to this chapter:

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

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

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

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

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

38 (c) Reported to the central repository.

39 3. An agency of criminal justice shall disseminate to a prospective
40 employer, upon request, records of criminal history concerning a
41 prospective employee or volunteer which:

42 (a) Reflect convictions only; or

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

46 4. The central repository shall disseminate to a prospective or current
47 employer, upon request, information relating to ~~sexual~~ *the* offenses *listed*
48 *in subsection 4 of NRS 179A.190* concerning an employee, prospective



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- 1 employee, volunteer or prospective volunteer who gives his written consent
2 to the release of that information.
- 3 5. Records of criminal history must be disseminated by an agency of
4 criminal justice upon request, to the following persons or governmental
5 entities:
- 6 (a) The person who is the subject of the record of criminal history for
7 the purposes of NRS 179A.150.
- 8 (b) The person who is the subject of the record of criminal history or his
9 attorney of record when the subject is a party in a judicial, administrative,
10 licensing, disciplinary or other proceeding to which the information is
11 relevant.
- 12 (c) The state gaming control board.
- 13 (d) The state board of nursing.
- 14 (e) The private investigator's licensing board to investigate an applicant
15 for a license.
- 16 (f) A public administrator to carry out his duties as prescribed in chapter
17 253 of NRS.
- 18 (g) A public guardian to investigate a ward or proposed ward or persons
19 who may have knowledge of assets belonging to a ward or proposed ward.
- 20 (h) Any agency of criminal justice of the United States or of another
21 state or the District of Columbia.
- 22 (i) Any public utility subject to the jurisdiction of the public utilities
23 commission of Nevada when the information is necessary to conduct a
24 security investigation of an employee or prospective employee, or to
25 protect the public health, safety or welfare.
- 26 (j) Persons and agencies authorized by statute, ordinance, executive
27 order, court rule, court decision or court order as construed by appropriate
28 state or local officers or agencies.
- 29 (k) Any person or governmental entity which has entered into a contract
30 to provide services to an agency of criminal justice relating to the
31 administration of criminal justice, if authorized by the contract, and if the
32 contract also specifies that the information will be used only for stated
33 purposes and that it will be otherwise confidential in accordance with state
34 and federal law and regulation.
- 35 (l) Any reporter for the electronic or printed media in his professional
36 capacity for communication to the public.
- 37 (m) Prospective employers if the person who is the subject of the
38 information has given written consent to the release of that information by
39 the agency which maintains it.
- 40 (n) For the express purpose of research, evaluative or statistical
41 programs pursuant to an agreement with an agency of criminal justice.
- 42 (o) The division of child and family services of the department of
43 human resources and any county agency that is operated pursuant to NRS
44 432B.325 or authorized by a court of competent jurisdiction to receive and
45 investigate reports of abuse or neglect of children and which provides or
46 arranges for protective services for such children.
- 47 (p) The welfare division of the department of human resources or its
48 designated representative.



1 (q) An agency of this or any other state or the Federal Government that
2 is conducting activities pursuant to Part D of ~~{Title}~~ *Subchapter IV* of
3 *Chapter 7 of Title 42 of* the Social Security Act , ~~{§}~~ 42 U.S.C. §§ 651 et
4 seq. ~~{§}~~

5 (r) The state disaster identification team of the division of emergency
6 management of the department . ~~{of motor vehicles and public safety}~~

7 6. Agencies of criminal justice in this state which receive information
8 from sources outside this state concerning transactions involving criminal
9 justice which occur outside Nevada shall treat the information as
10 confidentially as is required by the provisions of this chapter.

11 **Sec. 5.** NRS 179A.110 is hereby amended to read as follows:

12 179A.110 No person who receives information relating to ~~{sexual}~~ *the*
13 offenses *listed in subsection 4 of NRS 179A.190* or other records of
14 criminal history pursuant to this chapter may disseminate it further without
15 express authority of law or in accordance with a court order. This section
16 does not prohibit the dissemination of material by an employee of the
17 electronic or printed media in his professional capacity for communication
18 to the public.

19 **Sec. 6.** NRS 179A.130 is hereby amended to read as follows:

20 179A.130 Each agency of criminal justice which maintains and
21 disseminates information relating to ~~{sexual}~~ *the* offenses *listed in*
22 *subsection 4 of NRS 179A.190* or other records of criminal history must
23 maintain a log of each dissemination of that information other than a
24 dissemination of the fact that the agency has no record relating to a certain
25 person. The log must be maintained for at least 1 year after the information
26 is disseminated, and must contain:

27 1. An entry showing to what agency or person the information relating
28 to ~~{sexual}~~ *the* offenses *listed in subsection 4 of NRS 179A.190* or other
29 records of criminal history were provided;

30 2. The date on which the information was provided;

31 3. The person who is the subject of the information; and

32 4. A brief description of the information provided.

33 **Sec. 7.** NRS 179A.140 is hereby amended to read as follows:

34 179A.140 1. An agency of criminal justice may charge a reasonable
35 fee for information relating to ~~{sexual}~~ *the* offenses *listed in NRS*
36 *179A.190* or other records of criminal history furnished to any person or
37 governmental entity except another agency of criminal justice and the state
38 disaster identification team of the division of emergency management of
39 the department . ~~{of motor vehicles and public safety}~~ The central
40 repository shall not charge such a fee for information relating to a person
41 regarding whom the central repository furnished a similar report within the
42 immediately preceding 6 months in conjunction with the application by
43 that person for professional licensure.

44 2. All money received or collected by the department pursuant to this
45 section must be used to defray the cost of operating the central repository.

46 **Sec. 8.** NRS 179A.150 is hereby amended to read as follows:

47 179A.150 1. The central repository and each state, municipal, county
48 or metropolitan police agency shall permit a person, who is or believes he
49 may be the subject of information relating to ~~{sexual}~~ *the* offenses *listed in*



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1 *subsection 4 of NRS 179A.190* or other records of criminal history
2 maintained by that agency, to appear in person during normal business
3 hours of the agency and inspect any recorded information held by that
4 agency pertaining to him. This right of access does not extend to data
5 contained in intelligence, investigative or other related files, and does not
6 include any information other than ~~that defined as~~ information relating to
7 ~~sexual~~ the offenses *listed in subsection 4 of NRS 179A.190* or
8 *information in* a record of criminal history.

9 2. Each such agency shall adopt regulations and make available
10 necessary forms to permit inspection and review of information relating to
11 ~~sexual~~ the offenses *listed in NRS 179A.190* or other records of criminal
12 history by those persons who are the subjects thereof. The regulations must
13 specify:

14 (a) The reasonable periods during which the records are available for
15 inspection;

16 (b) The requirements for proper identification of the persons seeking
17 access to the records; and

18 (c) The reasonable charges or fees, if any, for inspecting records.

19 3. Each such agency shall procure for and furnish to any person who
20 requests it and pays a reasonable fee therefor, all of the information
21 contained in the central repository which pertains to the person making the
22 request.

23 4. The director of the department shall adopt regulations governing:

24 (a) All challenges to the accuracy or sufficiency of information relating
25 to ~~sexual~~ the offenses *listed in subsection 4 of NRS 179A.190* or other
26 records of criminal history by the person who is the subject of the allegedly
27 inaccurate or insufficient record;

28 (b) The correction of any information relating to ~~sexual~~ the offenses
29 *listed in subsection 4 of NRS 179A.190* or other record of criminal history
30 found by the director to be inaccurate, insufficient or incomplete in any
31 material respect;

32 (c) The dissemination of corrected information to those persons or
33 agencies which have previously received inaccurate or incomplete
34 information; and

35 (d) A time limit of not more than 90 days within which inaccurate or
36 insufficient information relating to ~~sexual~~ the offenses *listed in*
37 *subsection 4 of NRS 179A.190* or other records of criminal history must be
38 corrected and the corrected information disseminated. The corrected
39 information must be sent to each person who requested the information in
40 the 12 months preceding the date on which the correction was made, and
41 notice of the correction must be sent to each person entitled thereto
42 pursuant to NRS 179A.210, to the address given by each person who
43 requested the information when the request was made.

44 **Sec. 9.** NRS 179A.180 is hereby amended to read as follows:

45 179A.180 As used in NRS 179A.180 to 179A.240, inclusive, unless
46 the context otherwise requires:

47 1. "Employee" means a person who renders time and services to an
48 employer, *with or without compensation*, and whose regular course of
49 duties places that person in a position to:



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- 1 (a) Exercise supervisory or disciplinary control over children;
- 2 (b) Have direct access to or contact with children served by the
- 3 employer; or
- 4 (c) Have access to information or records maintained by the employer
- 5 relating to identifiable children served by the employer,
- 6 and includes a prospective employee, ~~but does not include a~~ volunteer or
- 7 prospective volunteer.

8 2. "Employer" means a person, or a governmental agency or political
9 subdivision of this state that is not an agency of criminal justice, whose
10 employees *or volunteers* regularly render services to children, including ,
11 without limitation , care, treatment, transportation, instruction,
12 companionship, entertainment and custody.

13 **Sec. 10.** NRS 179A.190 is hereby amended to read as follows:

14 179A.190 1. Notice of information relating to ~~sexual~~ *the* offenses
15 *listed in subsection 4* may be disseminated to employers pursuant to NRS
16 179A.190 to 179A.240, inclusive.

17 2. An employer may consider such a notice of information concerning
18 an employee when making a decision to hire, retain, suspend or discharge
19 the employee, and is not liable in an action alleging discrimination based
20 upon consideration of information obtained pursuant to NRS 179A.190 to
21 179A.240, inclusive.

22 3. The provisions of NRS 179A.190 to 179A.240, inclusive, do not
23 limit or restrict any other statute specifically permitting the dissemination
24 or release of information relating to ~~sexual offenses~~ *the offenses listed in*
25 *subsection 4.*

26 4. *The offenses for which a notice of information may be*
27 *disseminated pursuant to subsection 1 includes information contained in*
28 *or concerning a record of criminal history, or the records of criminal*
29 *history of the United States or another state, relating in any way to:*

- 30 (a) *Information relating to sexual offenses;*
- 31 (b) *Murder, voluntary manslaughter or mayhem;*
- 32 (c) *Assault with intent to kill or to commit mayhem;*
- 33 (d) *Abuse or neglect of a child or contributory delinquency;*
- 34 (e) *A violation of any provision of chapter 453 of NRS;*
- 35 (f) *A violation committed within the immediately preceding 7 years of*
36 *any federal or state law regulating the possession, distribution or use of*
37 *any controlled substance or any dangerous drug as defined in chapter*
38 *454 of NRS;*
- 39 (g) *A violation of any provision of NRS 200.5099;*
- 40 (h) *A violation of any provision of NRS 484.379 or 484.3795;*
- 41 (i) *Any offense committed within the immediately preceding 7 years*
42 *involving fraud, theft, embezzlement, burglary, robbery, fraudulent*
43 *conversion or misappropriation of property; or*
- 44 (j) *Any other felony committed within the immediately preceding 7*
45 *years involving the use of a firearm or other deadly weapon.*

46 5. *The information described in subsection 4 includes acts committed*
47 *outside this state that would constitute any of the offenses listed in that*
48 *subsection if committed in this state, and the aiding, abetting, attempting*
49 *or conspiring to engage in any of the offenses listed in that subsection.*



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1 **Sec. 11.** NRS 179A.200 is hereby amended to read as follows:
2 179A.200 1. An employer may request from the central repository
3 notice of information relating to ~~sexual~~ the offenses *listed in subsection 4*
4 *of NRS 179A.190* concerning an employee.

5 2. A request for notice of information relating to ~~sexual~~ the offenses
6 *listed in subsection 4 of NRS 179A.190* from an employer must conform
7 to the requirements of the central repository. The request must include:

8 (a) The name and address of the employer, and the name and signature
9 of the person requesting the notice on behalf of the employer;

10 (b) The name and address of the employer's facility in which the
11 employee is employed or seeking to become employed;

12 (c) The name, fingerprints and other identifying information of the
13 employee;

14 (d) Signed consent by the employee to a search of information relating
15 to ~~sexual~~ the offenses *listed in subsection 4 of NRS 179A.190*
16 concerning him, and for the release of a notice concerning that information;

17 (e) The mailing address of the employee or a signed waiver of the right
18 of the employee to be sent a copy of the information disseminated to the
19 employer as a result of the search of the records of criminal history; and

20 (f) The signature of the employee indicating that he has been notified
21 of:

22 (1) The types of information for which notice is subject to
23 dissemination pursuant to NRS 179A.210, or a description of the
24 information;

25 (2) The employer's right to require a check of the records of criminal
26 history as a condition of employment; and

27 (3) The employee's right, pursuant to NRS 179A.150, to challenge
28 the accuracy or sufficiency of any information disseminated to the
29 employer.

30 **Sec. 12.** NRS 179A.210 is hereby amended to read as follows:

31 179A.210 1. Upon receipt of a request from an employer for notice
32 of information relating to ~~sexual offenses,~~ the offenses *listed in*
33 *subsection 4 of NRS 179A.190*, the central repository shall undertake a
34 search for the information, unless the request does not conform to the
35 requirements of the repository. The search must be based on the
36 ~~employee's fingerprints,~~ *fingerprints of the employee*, or on a number
37 furnished to the employee for identification pursuant to a previous search,
38 as provided by the employer, and must include:

39 (a) Identifying any information relating to ~~sexual~~ the offenses *listed in*
40 *subsection 4 of NRS 179A.190* concerning the employee in the central
41 repository;

42 (b) Requesting information relating to ~~sexual~~ the offenses *listed in*
43 *subsection 4 of NRS 179A.190* concerning the employee from federal
44 repositories and repositories of other states, if authorized by federal law or
45 an agreement entered into pursuant to NRS 179A.075;

46 (c) If the information pertains to an arrest for which no disposition has
47 been reported, contacting appropriate officers in the local jurisdiction
48 where the arrest or prosecution occurred to verify and update the
49 information; and



- 1 (d) Determining whether the information relating to ~~{sexual}~~ the
2 offenses *listed in subsection 4 of NRS 179A.190* is the type of information
3 for which notice is subject to dissemination pursuant to this section.
- 4 2. Notice of information relating to ~~{sexual}~~ the offenses *listed in*
5 *subsection 4 of NRS 179A.190* may be disseminated to an employer who
6 has requested it only if a check of the pertinent records indicates:
- 7 (a) A conviction for ~~{a-sexual}~~ any such offense, or a conviction based
8 on an arrest or on an initial charge for ~~{a-sexual}~~ any such offense;
- 9 (b) An arrest or an initial charge for ~~{a-sexual}~~ any such offense *that is*
10 pending at the time of the request; or
- 11 (c) Two or more incidents resulting in arrest or initial charge for ~~{a-~~
12 ~~sexual}~~ any such offense that have not resulted in a conviction.
- 13 3. If a search of the records of the central repository reveals no
14 information for which notice is subject to release, the central repository
15 shall submit the fingerprints of the employee to the Federal Bureau of
16 Investigation for a search of its records of criminal history. The central
17 repository shall review all information received from the Federal Bureau of
18 Investigation. Notice of any information received from the Federal Bureau
19 of Investigation may be disseminated only if the information is of a kind
20 for which notice is subject to release pursuant to this section.
- 21 4. Within 30 days after receipt of a request by an employer for notice
22 of information relating to ~~{sexual-offenses,}~~ the offenses *listed in*
23 *subsection 4 of NRS 179A.190*, the central repository shall send a written
24 report of the results of the search to the employer and to the employee,
25 except that if the employee has waived his right to receive the results of the
26 search, the report must be sent only to the employer. If the search revealed:
- 27 (a) No information for which notice is subject to release, the report must
28 include a statement to that effect; or
- 29 (b) Information about the employee for which notice is subject to
30 release, the report must include a notice of the type of information, limited
31 to the descriptions set forth in subsection 2, revealed by the search. The
32 notice must not include any further facts or details concerning the
33 information. A statement of the purpose for which the notice is being
34 disseminated, and the procedures by which the employee might challenge
35 the accuracy and sufficiency of the information, must also be included with
36 the report.
- 37 5. Upon receipt of corrected information relating to ~~{sexual}~~ the
38 offenses *listed in subsection 4 of NRS 179A.190* for which notice was
39 disseminated under this section, the central repository shall send written
40 notice of the correction to:
- 41 (a) The employee who was the subject of the search, unless the
42 employee has waived his right to receive such a notice;
- 43 (b) All employers to whom notice of the results of the search were
44 disseminated within 3 months before the correction; and
- 45 (c) Upon request of the employee, any other employers who previously
46 received the information.
- 47 6. Upon receipt of new information relating to ~~{sexual}~~ the offenses
48 *listed in subsection 4 of NRS 179A.190* concerning an employee who was
49 the subject of a search within the previous 3 months, for which notice is



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1 subject to dissemination under this section, the central repository shall send
2 written notice of the information to:

3 (a) The employee who was the subject of the search, unless the
4 employee has waived his right to receive such a notice;

5 (b) All employers to whom a report of the results of the search were
6 disseminated within 3 months before the correction; and

7 (c) Upon request of the employee, any other employers who previously
8 received a report of the results of the search.

9 **Sec. 13.** NRS 179A.230 is hereby amended to read as follows:

10 179A.230 1. A person who is the subject of a request for notice of
11 information ~~relating to sexual offenses~~ pursuant to NRS 179A.190 to
12 179A.240, inclusive, may recover his actual damages in a civil action
13 against:

14 (a) The central repository for an intentional or grossly negligent:

15 (1) Dissemination of information relating to ~~sexual~~ the offenses
16 *listed in subsection 4 of NRS 179A.190* not authorized for dissemination;
17 or

18 (2) Release of information relating to ~~sexual~~ the offenses *listed in*
19 *subsection 4 of NRS 179A.190* to a person not authorized to receive the
20 information;

21 (b) The central repository for an intentional or grossly negligent failure
22 to correct any notice of information relating to ~~sexual~~ the offenses *listed*
23 *in subsection 4 of NRS 179A.190* which was disseminated pursuant to
24 NRS 179A.190 to 179A.240, inclusive; or

25 (c) An employer, representative of an employer or employee for an
26 intentional or grossly negligent violation of NRS 179A.110. Punitive
27 damages may be awarded against an employer, representative of an
28 employer or employee whose violation of NRS 179A.110 is malicious.

29 2. An employer is liable to a child served by the employer for damages
30 suffered by the child as a result of ~~a sexual~~ an offense *listed in*
31 *subsection 4 of NRS 179A.190* committed against the child by an
32 employee ~~hired on or after January 1, 1988,~~ if, at the time the employer
33 hired the employee, the employee was the subject of information relating to
34 ~~sexual~~ the offenses for which notice was available for dissemination to
35 the employer and the employer:

36 (a) Failed, without good cause, to request notice of the information
37 pursuant to NRS 179A.190 to 179A.240, inclusive; or

38 (b) Was unable to obtain the information because the employee refused
39 to consent to the search and release of the information, and the employer
40 hired or retained the employee despite this refusal.

41 The amount of damages for which an employer is liable pursuant to this
42 subsection must be reduced by the amount of damages recovered by the
43 child in an action against the employee for damages sustained as a result of
44 ~~the sexual offense,~~ an offense *listed in subsection 4 of NRS 179A.190.*

45 3. An action pursuant to this section must be brought within 3 years
46 after:

47 (a) The occurrence upon which the action is based; or



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(b) The date upon which the party bringing the action became aware or reasonably should have become aware of the occurrence, whichever was earlier, if he was not aware of the occurrence at the time of the occurrence.

4. This section does not limit or affect any other rights, claims or causes of action arising by statute or common law.

Sec. 14. NRS 179A.240 is hereby amended to read as follows:

179A.240 A person who knowingly and willfully:

1. Uses NRS 179A.190 to 179A.240, inclusive, to obtain or seek to obtain information relating to ~~sexual~~ the offenses *listed in subsection 4 of NRS 179A.190* under false pretenses;

2. Disseminates or attempts to disseminate information relating to ~~sexual~~ the offenses *listed in subsection 4 of NRS 179A.190* that he knows was not received in accordance with the provisions of this chapter; or

3. Disseminates or attempts to disseminate information relating to ~~sexual~~ the offenses *listed in subsection 4 of NRS 179A.190* that he knows is false, inaccurate or incomplete, is guilty of a misdemeanor.

Sec. 15. NRS 179A.310 is hereby amended to read as follows:

179A.310 1. The revolving account to investigate the background of volunteers who work with children is hereby created in the state general fund.

2. The director of the department shall administer the account to investigate the background of volunteers who work with children. The money in the account must be expended only to pay the costs of the central repository to process requests from nonprofit agencies to determine whether a volunteer of a nonprofit agency who works directly with children or a prospective volunteer of the nonprofit agency who will work directly with children has committed ~~a sexual offense~~ *an offense listed in subsection 4 of NRS 179A.190*. The existence of the account to investigate the background of volunteers who work with children does not create a right in any person to receive money from the account.

3. The director of the department may apply for and accept any gift, donation, bequest, grant or other source of money. Any money so received must be deposited in the account to investigate the background of volunteers who work with children.

4. The interest and income earned on money in the account from any gift, donation ~~+~~ or bequest, after deducting any applicable charges, must be credited to the account. Money from any gift, donation ~~+~~ or bequest that remains in the account at the end of the fiscal year does not revert to the state general fund, and the balance in the account must be carried forward to the next fiscal year.

5. The director of the department shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation:

(a) The procedure by which a person may apply for a grant of money from the account to investigate the background of volunteers who work with children;



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1 (b) The criteria that the department will consider in determining
2 whether to award such a grant of money from the account; and

3 (c) Procedures to distribute the money in the account in a fair and
4 equitable manner.

5 6. The ~~following facts~~ *fact that a nonprofit agency did not apply for*
6 *a grant of money from the account* must not be considered as evidence of
7 negligence or causation in any civil action brought against a nonprofit
8 agency. ~~†~~

9 ~~—(a) The fact that the nonprofit agency did not apply for a grant of money~~
10 ~~from the account.~~

11 ~~—(b) The fact that the nonprofit agency did not request that the central~~
12 ~~repository, through the use of the account, determine whether a volunteer~~
13 ~~or prospective volunteer of the nonprofit agency has committed a sexual~~
14 ~~offense.]~~

15 **Sec. 16.** NRS 179B.250 is hereby amended to read as follows:

16 179B.250 1. The department shall, in a manner prescribed by the
17 director, establish within the central repository a program to provide the
18 public with access to certain information contained in the statewide
19 registry. The program may include, but is not limited to, the use of a secure
20 website on the Internet or other electronic means of communication to
21 provide the public with access to certain information contained in the
22 statewide registry if such information is made available and disclosed in
23 accordance with the procedures set forth in this section.

24 2. Before a search of the statewide registry is conducted on behalf of a
25 requester seeking information from the program, the requester must
26 provide his name, address and telephone number and the following
27 information concerning the identity of the subject of the search:

28 (a) The name of the subject of the search and at least one of the
29 following items:

30 (1) The social security number of the subject of the search;
31 (2) The identification number from a driver's license or an
32 identification card issued to the subject of the search by this state; or
33 (3) The date of birth of the subject of the search; or

34 (b) The name and address of the subject of the search and all of the
35 following items:

36 (1) The race or ethnicity of the subject of the search;
37 (2) The hair color and eye color of the subject of the search;
38 (3) The approximate height and weight of the subject of the search;

39 and

40 (4) The approximate age of the subject of the search.

41 After conducting a search based upon information provided pursuant to
42 paragraph (a) or (b), the central repository may require the requester to
43 provide additional information to confirm the identity of the subject of the
44 search. The additional information may include, but is not limited to, the
45 license number from a motor vehicle frequently driven by the subject of the
46 search, the employer of the subject of the search or any information listed
47 in paragraph (a) or (b) that was not provided for the initial search.

48 3. After conducting a search of the statewide registry on behalf of a
49 requester, the central repository shall inform the requester that:



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- 1 (a) No person listed in the statewide registry matches the information
2 provided by the requester concerning the identity of the subject of the
3 search;
- 4 (b) The requester needs to provide additional information concerning
5 the identity of the subject of the search before the central repository may
6 disclose the results of the search; or
- 7 (c) A person listed in the statewide registry matches the information
8 provided by the requester concerning the identity of the subject of the
9 search. If a search of the statewide registry results in a match pursuant to
10 this paragraph, the central repository:
- 11 (1) Shall inform the requester of each offense for which the subject of
12 the search was convicted and the date and location of each conviction.
- 13 (2) May, through the use of a secure website on the Internet or other
14 electronic means of communication, provide the requester with a
15 photographic image of the subject of the search if such an image is
16 available.
- 17 (3) Shall not provide the requester with any other information that is
18 included in the record of registration for the subject of the search.
- 19 4. For each inquiry to the program, the central repository shall:
- 20 (a) Charge a fee to the requester;
- 21 (b) Maintain a log of the information provided by the requester to the
22 central repository and the information provided by the central repository to
23 the requester; and
- 24 (c) Inform the requester that information obtained through the program
25 may not be used to violate the law or the individual rights of another
26 person and that such misuse of information obtained through the program
27 may subject the requester to criminal prosecution or civil liability for
28 damages.
- 29 5. A person may not use information obtained through the program as
30 a substitute for information relating to ~~sexual~~ the offenses *listed in*
31 *subsection 4 of NRS 179A.190* that must be provided by the central
32 repository pursuant to NRS 179A.190 to 179A.240, inclusive, or another
33 provision of law.
- 34 **Sec. 17.** NRS 179A.065 is hereby repealed.
- 35 **Sec. 18.** The amendatory provisions of section 14 of this act do not
36 apply to offenses committed before July 1, 2001.
- 37 **Sec. 19.** This act becomes effective on July 1, 2001.

TEXT OF REPEALED SECTION

179A.065 “Information relating to sexual offenses” defined.
“Information relating to sexual offenses” means information contained in
or concerning a record of criminal history, or the records of criminal
history of the United States or another state, relating in any way to a sexual
offense.

