

ASSEMBLY BILL NO. 489—ASSEMBLYMEN GUSTAVSON, ANGLE, BEERS,
ANDERSON, BERMAN, BROWER, BROWN, BUCKLEY, CARPENTER,
CLABORN, GIBBONS, HUMKE, LEE, OCEGUERA, PRICE AND
VON TOBEL

MARCH 19, 2001

Referred to Committee on Judiciary

SUMMARY—Requires genetic marker analysis to be obtained from certain offenders
convicted of certain felonies. (BDR 14-1038)

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 procedure; requiring genetic marker analysis to be obtained
from certain offenders convicted of certain felonies; revising certain provisions
concerning genetic marker testing to refer to obtaining a “biological specimen”;
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 176.0913 is hereby amended to read as follows:
2 176.0913 1. If a defendant is convicted of an offense listed in
3 subsection 4, the court, at sentencing, shall order that:
4 (a) The name, social security number, date of birth and any other
5 information identifying the defendant be submitted to the central repository
6 for Nevada records of criminal history; and
7 (b) ~~{Samples of blood}~~ ***A biological specimen*** be obtained from the
8 defendant pursuant to the provisions of this section and that the ~~{samples}~~
9 ***specimen*** be used for an analysis to determine the genetic markers of the
10 ~~{blood}~~ ***specimen***.
11 2. If the defendant is committed to the custody of the department of
12 prisons, the department of prisons shall arrange for the ~~{samples of blood}~~
13 ***biological specimen*** to be obtained from the defendant. The department of
14 prisons shall provide the ~~{samples of blood}~~ ***specimen*** to the forensic
15 laboratory that has been designated by the county in which the defendant
16 was convicted to conduct or oversee genetic marker testing for the county
17 pursuant to NRS 176.0917.



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1 3. If the defendant is not committed to the custody of the department
2 of prisons, the division shall arrange for the ~~{samples of blood}~~ *biological*
3 *specimen* to be obtained from the defendant. The division shall provide the
4 ~~{samples of blood}~~ *specimen* to the forensic laboratory that has been
5 designated by the county in which the defendant was convicted to conduct
6 or oversee genetic marker testing for the county pursuant to NRS
7 176.0917. Any cost that is incurred to obtain ~~{the samples of blood from~~
8 ~~the}~~ *a biological specimen from a* defendant pursuant to this subsection is
9 a charge against the county in which the defendant was convicted and must
10 be paid as provided in NRS 176.0915.

11 4. The provisions of subsection 1 apply to a defendant who is
12 convicted of any of the following offenses:

- 13 (a) *A category A felony;*
14 (b) *A category B felony;*
15 (c) *A category C felony involving the use or threatened use of force or*
16 *violence against the victim;*
17 (d) A crime against a child as defined in NRS 179D.210.
18 ~~{(b)}~~ (e) A sexual offense as defined in NRS 179D.410.
19 ~~{(c) Murder, manslaughter or any other unlawful killing pursuant to~~
20 ~~NRS 200.010 to 200.260, inclusive.~~
21 ~~— (d) Mayhem pursuant to NRS 200.280.~~
22 ~~— (e) Administering poison or another noxious or destructive substance or~~
23 ~~liquid with intent to cause death pursuant to NRS 200.390.~~
24 ~~— (f) Battery with intent to commit a crime pursuant to NRS 200.400.~~
25 ~~— (g) Battery which is committed with the use of a deadly weapon or~~
26 ~~which results in substantial bodily harm pursuant to NRS 200.481.~~
27 ~~— (h)}~~ (f) Abuse or neglect of an older person pursuant to NRS 200.5099.
28 ~~{(i)}~~ (g) A second or subsequent offense for stalking pursuant to NRS
29 200.575.

- 30 ~~{(j) Burglary pursuant to NRS 205.060.~~
31 ~~— (k) Invasion of the home pursuant to NRS 205.067.~~
32 ~~{(h)}~~ (h) An attempt to commit an offense listed in this subsection.

33 **Sec. 2.** NRS 176.0915 is hereby amended to read as follows:

34 176.0915 1. If the court orders that ~~{samples of blood}~~ *a biological*
35 *specimen* be obtained from a defendant pursuant to NRS 176.0913, the
36 court, in addition to any other penalty, shall order the defendant, to the
37 extent of his financial ability, to pay the sum of \$250 as a fee for obtaining
38 the ~~{samples of blood}~~ *specimen* and for conducting the analysis to
39 determine the genetic markers of the ~~{blood}~~ *specimen*. The fee:

- 40 (a) Must be stated separately in the judgment of the court or on the
41 docket of the court;
42 (b) Must be collected from the defendant before or at the same time that
43 any fine imposed by the court is collected from the defendant; and
44 (c) Must not be deducted from any fine imposed by the court.

45 2. All money that is collected pursuant to subsection 1 must be paid by
46 the clerk of the court to the county treasurer on or before the fifth day of
47 each month for the preceding month.

48 3. The board of county commissioners of each county shall by
49 ordinance create in the county treasury a fund to be designated as the fund



1 for genetic marker testing. The county treasurer shall deposit money that is
2 collected pursuant to subsection 2 in the fund for genetic marker testing.
3 The money must be accounted for separately within the fund.

4 4. Each month, the county treasurer shall use the money deposited in
5 the fund for genetic marker testing to pay for the actual amount charged to
6 the county for obtaining ~~samples of blood from defendants~~ *a biological*
7 *specimen from a defendant* pursuant to NRS 176.0913.

8 5. If money remains in the fund after the county treasurer makes the
9 payments required by subsection 4, the county treasurer shall pay the
10 remaining money each month to the forensic laboratory that is designated
11 by the county pursuant to NRS 176.0917 to conduct or oversee genetic
12 marker testing for the county. A forensic laboratory that receives money
13 pursuant to this subsection shall use the money to:

14 (a) Maintain and purchase equipment and supplies relating to genetic
15 marker testing, including, but not limited to, equipment and supplies
16 required by the Federal Bureau of Investigation for participation in CODIS;
17 and

18 (b) Pay for the training and continuing education, including, but not
19 limited to, the reasonable travel expenses, of employees of the forensic
20 laboratory who conduct or oversee genetic marker testing.

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

22 179A.075 1. The central repository for Nevada records of criminal
23 history is hereby created within the Nevada highway patrol division of the
24 department.

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

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

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

32 3. Each agency of criminal justice shall submit the information relating
33 to sexual offenses and other records of criminal history that it creates or
34 issues, and any information in its possession relating to the genetic markers
35 of ~~the blood and the secretor status of the saliva~~ *a biological specimen*
36 of a person who is convicted of ~~sexual assault or any other sexual offense,~~
37 *an offense listed in subsection 4 of NRS 176.0913*, to the division in the
38 manner prescribed by the director of the department. The information must
39 be submitted to the division:

40 (a) Through an electronic network;

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

42 (c) In the manner prescribed by the director of the
43 department,

44 within the period prescribed by the director of the department. If an agency
45 has submitted a record regarding the arrest of a person who is later
46 determined by the agency not to be the person who committed the
47 particular crime, the agency shall, immediately upon making that
48 determination, so notify the division. The division shall delete all
49 references in the central repository relating to that particular arrest.



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- 1 4. The division shall, in the manner prescribed by the director of the
2 department:
- 3 (a) Collect, maintain and arrange all information submitted to it relating
4 to:
- 5 (1) Sexual offenses and other records of criminal history; and
6 (2) The genetic markers of ~~the blood and the secretor status of the~~
7 ~~saliva~~ *a biological specimen* of a person who is convicted of ~~sexual~~
8 ~~assault or any other sexual offense.~~ *an offense listed in subsection 4 of*
9 *NRS 176.0913.*
- 10 (b) When practicable, use a record of the personal identifying
11 information of a subject as the basis for any records maintained regarding
12 him.
- 13 (c) Upon request, provide the information that is contained in the central
14 repository to the state disaster identification team of the division of
15 emergency management of the department . ~~of motor vehicles and public~~
16 ~~safety.~~
- 17 5. The division may:
- 18 (a) Disseminate any information which is contained in the central
19 repository to any other agency of criminal justice;
- 20 (b) Enter into cooperative agreements with federal and state repositories
21 to facilitate exchanges of information that may be disseminated pursuant to
22 paragraph (a); and
- 23 (c) Request of and receive from the Federal Bureau of Investigation
24 information on the background and personal history of any person whose
25 record of fingerprints the central repository submits to the Federal Bureau
26 of Investigation and:
- 27 (1) Who has applied to any agency of the State of Nevada or any
28 political subdivision thereof for a license which it has the power to grant or
29 deny;
- 30 (2) With whom any agency of the State of Nevada or any political
31 subdivision thereof intends to enter into a relationship of employment or a
32 contract for personal services;
- 33 (3) About whom any agency of the State of Nevada or any political
34 subdivision thereof has a legitimate need to have accurate personal
35 information for the protection of the agency or the persons within its
36 jurisdiction; or
- 37 (4) For whom such information is required to be obtained pursuant to
38 NRS 449.179.
- 39 6. The central repository shall:
- 40 (a) Collect and maintain records, reports and compilations of statistical
41 data submitted by any agency pursuant to subsection 2.
- 42 (b) Tabulate and analyze all records, reports and compilations of
43 statistical data received pursuant to this section.
- 44 (c) Disseminate to federal agencies engaged in the collection of
45 statistical data relating to crime information which is contained in the
46 central repository.
- 47 (d) Investigate the criminal history of any person who:
- 48 (1) Has applied to the superintendent of public instruction for a
49 license;



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1 (2) Has applied to a county school district for employment; or
2 (3) Is employed by a county school district,
3 and notify the superintendent of each county school district and the
4 superintendent of public instruction if the investigation of the central
5 repository indicates that the person has been convicted of a violation of
6 NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a
7 felony or any offense involving moral turpitude.
8 (e) Upon discovery, notify the superintendent of each county school
9 district by providing him with a list of all persons:
10 (1) Investigated pursuant to paragraph (d); or
11 (2) Employed by a county school district whose fingerprints were
12 sent previously to the central repository for investigation,
13 who the central repository's records indicate have been convicted of a
14 violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or
15 convicted of a felony or any offense involving moral turpitude since the
16 central repository's initial investigation. The superintendent of each county
17 school district shall determine whether further investigation or action by
18 the district is appropriate.
19 (f) Investigate the criminal history of each person who submits
20 fingerprints or has his fingerprints submitted pursuant to NRS 449.176 or
21 449.179.
22 (g) On or before July 1 of each year, prepare and present to the
23 governor a printed annual report containing the statistical data relating to
24 crime received during the preceding calendar year. Additional reports may
25 be presented to the governor throughout the year regarding specific areas
26 of crime if they are recommended by the advisory committee and approved
27 by the director of the department.
28 (h) On or before July 1 of each year, prepare and submit to the director
29 of the legislative counsel bureau, for submission to the legislature, or the
30 legislative commission when the legislature is not in regular session, a
31 report containing statistical data about domestic violence in this state.
32 (i) Identify and review the collection and processing of statistical data
33 relating to criminal justice and the delinquency of children by any agency
34 identified in subsection 2, and make recommendations for any necessary
35 changes in the manner of collecting and processing statistical data by any
36 such agency.
37 7. The central repository may:
38 (a) At the recommendation of the advisory committee and in the manner
39 prescribed by the director of the department, disseminate compilations of
40 statistical data and publish statistical reports relating to crime or the
41 delinquency of children.
42 (b) Charge a reasonable fee for any publication or special report it
43 distributes relating to data collected pursuant to this section. The central
44 repository may not collect such a fee from an agency of criminal justice,
45 any other agency dealing with crime or the delinquency of children which
46 is required to submit information pursuant to subsection 2 or the state
47 disaster identification team of the division of emergency management of
48 the department. ~~of motor vehicles and public safety.~~ All money collected



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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:

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 designed,
11 commonly used or capable of being used, alone or in conjunction with any
12 other information, to identify a person, including, without limitation:

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

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

17 **Sec. 4.** NRS 56.020 is hereby amended to read as follows:

18 56.020 1. Whenever it is relevant in a civil or criminal action to
19 determine the parentage or identity of any person or corpse, the court, by
20 order, may direct any party to the action and the person involved in the
21 controversy to submit to one or more ~~blood or saliva tests;~~ *tests to obtain*
22 *a biological specimen to determine the genetic markers of the specimen,*
23 to be made by qualified persons, under such restrictions and directions as
24 the court deems proper. ~~[The tests may include analysis of a person’s blood~~
25 ~~to determine its genetic markers and of a person’s saliva to determine its~~
26 ~~secretor status.]~~

27 2. Whenever a test is ordered and made, the results of the test may be
28 received in evidence. The order for the tests also may direct that the
29 testimony of the experts and of the persons so examined may be taken by
30 deposition. The opinion of any expert concerning results of blood tests may
31 be weighted in accordance with evidence, if available, of the statistical
32 probability of the alleged blood relationship. The court shall determine
33 how and by whom the costs of the examination must be paid.

34 **Sec. 5.** The amendatory provisions of this act do not apply to a person
35 who is sentenced before October 1, 2001.

