

ASSEMBLY BILL NO. 382—ASSEMBLYWOMAN WEBER

MARCH 24, 2005

Referred to Concurrent Committees on
Judiciary and Ways and Means

SUMMARY—Makes various changes concerning genetic marker testing of certain convicted persons. (BDR 14-923)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Contains Appropriation not included in Executive Budget.

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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; expanding the crimes for which a defendant is required to submit a biological specimen for genetic marker analysis when he is found guilty; requiring a juvenile court to order a genetic marker analysis from a child who is adjudicated delinquent for committing certain unlawful acts; making appropriations; 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
2 follows:
3 176.0913 1. If a defendant is convicted of an offense listed in
4 subsection 4, the court, at sentencing, shall order that:
5 (a) The name, social security number, date of birth and any other
6 information identifying the defendant be submitted to the Central
7 Repository for Nevada Records of Criminal History; and
8 (b) A biological specimen be obtained from the defendant
9 pursuant to the provisions of this section and that the specimen be
10 used for an analysis to determine the genetic markers of the
11 specimen.
12 2. If the defendant is committed to the custody of the
13 Department of Corrections, the Department of Corrections



1 shall arrange for the biological specimen to be obtained from
2 the defendant. The Department of Corrections shall provide the
3 specimen to the forensic laboratory that has been designated by the
4 county in which the defendant was convicted to conduct or oversee
5 genetic marker testing for the county pursuant to NRS 176.0917.

6 3. If the defendant is not committed to the custody of the
7 Department of Corrections, the Division shall arrange for the
8 biological specimen to be obtained from the defendant. The
9 Division shall provide the specimen to the forensic laboratory that
10 has been designated by the county in which the defendant was
11 convicted to conduct or oversee genetic marker testing for the
12 county pursuant to NRS 176.0917. Any cost that is incurred to
13 obtain a biological specimen from a defendant pursuant to this
14 subsection is a charge against the county in which the defendant was
15 convicted and must be paid as provided in NRS 176.0915.

16 4. Except as otherwise provided in subsection 5, the provisions
17 of subsection 1 apply to a defendant who is convicted of:

18 (a) ~~[A category A felony;~~
19 ~~—(b) A category B felony;~~
20 ~~—(c) A category C felony involving the use or threatened use of~~
21 ~~force or violence against the victim;~~
22 ~~—(d)] Any felony;~~

23 (b) A crime against a child as defined in NRS 179D.210;

24 ~~[(e)]~~ (c) A sexual offense as defined in NRS 179D.410;

25 ~~[(f)]~~ (d) Abuse or neglect of an older person pursuant to
26 NRS 200.5099;

27 ~~[(g)]~~ (e) A second or subsequent offense for stalking pursuant to
28 NRS 200.575;

29 ~~[(h)]~~ (f) An attempt or conspiracy to commit an offense listed in
30 paragraphs (a) to ~~[(g);]~~ (e), inclusive; *or*

31 ~~[(i)]~~ (g) Failing to register with a local law enforcement agency
32 as a convicted person as required pursuant to NRS 179C.100, if the
33 defendant previously was:

34 (1) Convicted in this State of committing an offense listed in
35 paragraph (a), ~~[(b), (c), (f), (g) or (h);]~~ (d), (e) *or* (f); or

36 (2) Convicted in another jurisdiction of committing an
37 offense that would constitute an offense listed in paragraph (a), ~~[(b),~~
38 ~~(c), (f), (g) or (h)]~~ (d), (e) *or* (f) if committed in this State. ~~[(i);~~

39 ~~—(j) Failing to register with a local law enforcement agency after~~
40 ~~being convicted of a crime against a child as required pursuant to~~
41 ~~NRS 179D.240; or~~

42 ~~—(k) Failing to register with a local law enforcement agency after~~
43 ~~being convicted of a sexual offense as required pursuant to~~
44 ~~NRS 179D.450.]~~



5. A court shall not order a biological specimen to be obtained from a defendant who has previously submitted such a specimen for conviction of a prior offense unless the court determines that an additional sample is necessary.

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

179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the Nevada Highway Patrol Division of the Department.

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

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

(b) Submit the information collected to the Central Repository in the manner recommended by the Advisory Committee and approved by the Director of the Department.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues, and any information in its possession relating to the genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913 ~~and of a child who is adjudicated delinquent for committing such an offense~~, to the Division in the manner prescribed by the Director of the Department. The information must be submitted to the Division:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

(c) In the manner prescribed by the Director of the Department, within the period prescribed by the Director of the Department. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

4. The Division shall, in the manner prescribed by the Director of the Department:

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

(1) Records of criminal history; and

(2) The genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913 ~~and of a child who is adjudicated delinquent for committing such an offense~~.

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



(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.

5. The Division may:

(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

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

(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:

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

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

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

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

↳ To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.

6. The Central Repository shall:

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

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

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

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

(1) Has applied to the Superintendent of Public Instruction for a license;

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

(3) Is employed by a county school district or a private school,



1 ➤ and notify the superintendent of each county school district and
2 the Superintendent of Public Instruction, or the administrator of
3 each private school, as appropriate, if the investigation of the
4 Central Repository indicates that the person has been convicted of a
5 violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395,
6 or convicted of a felony or any offense involving moral turpitude.

7 (e) Upon discovery, notify the superintendent of each county
8 school district or the administrator of each private school, as
9 appropriate, by providing the superintendent or administrator with a
10 list of all persons:

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

12 (2) Employed by a county school district or private school
13 whose fingerprints were sent previously to the Central Repository
14 for investigation,

15 ➤ who the Central Repository's records indicate have been
16 convicted of a violation of NRS 200.508, 201.230, 453.3385,
17 453.339 or 453.3395, or convicted of a felony or any offense
18 involving moral turpitude since the Central Repository's initial
19 investigation. The superintendent of each county school district or
20 the administrator of each private school, as applicable, shall
21 determine whether further investigation or action by the district or
22 private school, as applicable, is appropriate.

23 (f) Investigate the criminal history of each person who submits
24 fingerprints or has his fingerprints submitted pursuant to NRS
25 449.176 or 449.179.

26 (g) On or before July 1 of each year, prepare and present to the
27 Governor a printed annual report containing the statistical data
28 relating to crime received during the preceding calendar year.
29 Additional reports may be presented to the Governor throughout the
30 year regarding specific areas of crime if they are recommended by
31 the Advisory Committee and approved by the Director of the
32 Department.

33 (h) On or before July 1 of each year, prepare and submit to the
34 Director of the Legislative Counsel Bureau, for submission to the
35 Legislature, or the Legislative Commission when the Legislature is
36 not in regular session, a report containing statistical data about
37 domestic violence in this State.

38 (i) Identify and review the collection and processing of
39 statistical data relating to criminal justice and the delinquency of
40 children by any agency identified in subsection 2, and make
41 recommendations for any necessary changes in the manner of
42 collecting and processing statistical data by any such agency.

43 7. The Central Repository may:

44 (a) At the recommendation of the Advisory Committee and in
45 the manner prescribed by the Director of the Department,



1 disseminate compilations of statistical data and publish statistical
2 reports relating to crime or the delinquency of children.

3 (b) Charge a reasonable fee for any publication or special report
4 it distributes relating to data collected pursuant to this section. The
5 Central Repository may not collect such a fee from an agency of
6 criminal justice, any other agency dealing with crime or the
7 delinquency of children which is required to submit information
8 pursuant to subsection 2 or the State Disaster Identification Team of
9 the Division of Emergency Management of the Department. All
10 money collected pursuant to this paragraph must be used to pay for
11 the cost of operating the Central Repository.

12 (c) In the manner prescribed by the Director of the Department,
13 use electronic means to receive and disseminate information
14 contained in the Central Repository that it is authorized to
15 disseminate pursuant to the provisions of this chapter.

16 8. As used in this section:

17 (a) "Advisory Committee" means the Committee established by
18 the Director of the Department pursuant to NRS 179A.078.

19 (b) "Personal identifying information" means any information
20 designed, commonly used or capable of being used, alone or in
21 conjunction with any other information, to identify a person,
22 including, without limitation:

23 (1) The name, driver's license number, social security
24 number, date of birth and photograph or computer-generated image
25 of a person; and

26 (2) The fingerprints, voiceprint, retina image and iris image
27 of a person.

28 (c) "Private school" has the meaning ascribed to it in
29 NRS 394.103.

30 **Sec. 3.** Chapter 62H of NRS is hereby amended by adding
31 thereto a new section to read as follows:

32 *1. Except as otherwise provided in subsection 3, if a child is*
33 *adjudicated delinquent for committing an offense listed in*
34 *subsection 4 of NRS 176.0913, the juvenile court shall order that a*
35 *biological specimen be obtained from the child and that the*
36 *specimen be used for an analysis to determine the genetic markers*
37 *of the specimen in accordance with the provisions set forth in NRS*
38 *176.0913 to 176.0917, inclusive.*

39 *2. Any genetic markers determined from a biological*
40 *specimen which is obtained from a child pursuant to the*
41 *provisions of this section:*

42 *(a) May be retained in a local file or local system for the*
43 *automatic retrieval of such genetic markers if they are retained*
44 *under special security measures that limit inspection of the genetic*



1 *markers to law enforcement officers who are conducting criminal*
2 *investigations.*

3 *(b) Must be submitted to the Central Repository with a*
4 *description of the child and the unlawful act that the child*
5 *committed. The Central Repository shall retain the genetic*
6 *markers and information of the child under special security*
7 *measures that limit inspection of the genetic markers to:*

8 *(1) Law enforcement officers who are conducting criminal*
9 *investigations; and*

10 *(2) Officers and employees of the Central Repository who*
11 *are assisting law enforcement officers with criminal investigations*
12 *or who are conducting research or performing a statistical*
13 *analysis.*

14 *3. The Division of Child and Family Services shall arrange*
15 *for the biological specimen to be obtained from the child and*
16 *provide the specimen to the forensic laboratory that has been*
17 *designated by the county in which the child is adjudicated*
18 *delinquent to conduct or oversee genetic marker testing for the*
19 *county pursuant to NRS 176.0917.*

20 **Sec. 4.** 1. There is hereby appropriated from the State
21 General Fund to the Las Vegas Metropolitan Police Department
22 Forensic Laboratory to conduct and oversee any genetic marker
23 testing for the county, to maintain and purchase equipment and
24 supplies relating to genetic marker testing and to pay for the
25 salaries, reasonable travel expenses, training and continuing
26 education of employees of the laboratory who conduct or oversee
27 genetic marker testing:

28 For the Fiscal Year 2005-2006..... \$650,000

29 For the Fiscal Year 2006-2007..... \$650,000

30 2. The sums appropriated by subsection 1 are available for
31 either fiscal year. Any balance of those sums must not be committed
32 for expenditure after June 30, 2007, and must be reverted to the
33 State General Fund on or before September 21, 2007.

34 **Sec. 5.** 1. There is hereby appropriated from the State
35 General Fund to the Forensic Science Division of the Washoe
36 County Sheriff's Office Crime Laboratory to conduct and oversee
37 any genetic marker testing for the county, to maintain and purchase
38 equipment and supplies relating to genetic marker testing and to pay
39 for the salaries, reasonable travel expenses, training and continuing
40 education of employees of the laboratory who conduct or oversee
41 genetic marker testing:

42 For the Fiscal Year 2005-2006..... \$350,000

43 For the Fiscal Year 2006-2007..... \$350,000

44 2. The sums appropriated by subsection 1 are available for
45 either fiscal year. Any balance of those sums must not be committed



- 1 for expenditure after June 30, 2007, and must be reverted to the
- 2 State General Fund on or before September 21, 2007.
- 3 **Sec. 6.** This act becomes effective on July 1, 2005.

