

SENATE BILL NO. 38—COMMITTEE ON TRANSPORTATION
AND HOMELAND SECURITY

(ON BEHALF OF THE DEPARTMENT OF PUBLIC SAFETY)

PREFILED JANUARY 26, 2007

Referred to Committee on Transportation and Homeland Security

SUMMARY—Makes various changes concerning the Central
Repository for Nevada Records of Criminal History.
(BDR 43-559)

FISCAL NOTE: Effect on Local Government: No.
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; creating the Records and
Technology Division of the Department of Public Safety;
enumerating the duties of the Division; transferring the
duties for maintaining the Central Repository for Nevada
Records of Criminal History from the Nevada Highway
Patrol Division to the Records and Technology Division
of the Department; revising the persons to whom
information may be distributed by the Central Repository;
and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill creates the Records and Technology Division within the
Department of Public Safety. **Sections 2-4** of this bill transfer the responsibility to
maintain the Central Repository for Nevada Records of Criminal History from the
Nevada Highway Patrol Division to the new Records and Technology Division.
(NRS 179A.075, 480.140, 480.360)

Section 5 of this bill revises the law governing distribution of information from
the Central Repository to provide that the Central Repository may provide any
information authorized to be distributed to an employer to a person or entity
designated to receive such information on behalf of the employer. (NRS 179A.100)



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

Section 1. NRS 480.130 is hereby amended to read as follows:

480.130 The Department consists of:

1. An Administrative Services Division;
2. An Investigation Division;
3. A Nevada Highway Patrol Division;
4. A Division of Emergency Management;
5. A State Fire Marshal Division;
6. A Division of Parole and Probation;
7. A Capitol Police Division; ~~and~~
8. A Training Division ~~and~~; *and*
9. *A Records and Technology Division.*

Sec. 2. NRS 480.140 is hereby amended to read as follows:

480.140 The primary functions and responsibilities of the divisions of the Department are as follows:

1. The Administrative Services Division shall furnish fiscal, accounting and other administrative services to the Director and the various divisions, and advise and assist the Director and the various divisions in carrying out their functions and responsibilities.

2. The Investigation Division shall:

(a) Execute, administer and enforce the provisions of chapter 453 of NRS relating to controlled substances and chapter 454 of NRS relating to dangerous drugs;

(b) Assist the Secretary of State in carrying out an investigation pursuant to NRS 293.124; and

(c) Perform such duties and exercise such powers as may be conferred upon it pursuant to this chapter and any other specific statute.

3. The Nevada Highway Patrol Division shall, in conjunction with the Department of Motor Vehicles, execute, administer and enforce the provisions of chapter 484 of NRS and perform such duties and exercise such powers as may be conferred upon it pursuant to NRS 480.360 and any other specific statute.

4. The Division of Emergency Management shall execute, administer and enforce the provisions of chapter 414 of NRS and perform such duties and exercise such powers as may be conferred upon it pursuant to chapter 414 of NRS and any other specific statute.

5. The State Fire Marshal Division shall execute, administer and enforce the provisions of chapter 477 of NRS and perform such duties and exercise such powers as may be conferred upon it pursuant to chapter 477 of NRS and any other specific statute.



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6. The Division of Parole and Probation shall execute, administer and enforce the provisions of chapters 176A and 213 of NRS relating to parole and probation and perform such duties and exercise such powers as may be conferred upon it pursuant to those chapters and any other specific statute.

7. The Capitol Police Division shall assist the Chief of the Buildings and Grounds Division of the Department of Administration in the enforcement of subsection 1 of NRS 331.140.

8. The Training Division shall provide training to the employees of the Department.

9. The Records and Technology Division shall:

(a) Execute, administer and enforce the provisions of chapter 179A of NRS and perform such duties and exercise such powers as may be conferred upon it pursuant to chapter 179A of NRS and any other specific statute; and

(b) Provide technology support services to the Director, the divisions of the Department, and the Nevada Criminal Justice System and offer technology services as may be imposed by the Director.

Sec. 3. NRS 480.360 is hereby amended to read as follows:

480.360 The duties of the personnel of the Nevada Highway Patrol include, without limitation:

1. To police the public highways of this State, to enforce and to aid in enforcing thereon all the traffic laws of the State of Nevada and to enforce all other laws of this State when:

(a) In the apprehension or pursuit of an offender or suspected offender;

(b) Making arrests for crimes committed in their presence or upon or adjacent to the highways of this State; or

(c) Making arrests pursuant to a warrant in the officer's possession or communicated to him.

2. To investigate accidents on all primary and secondary highways within the State of Nevada resulting in personal injury, property damage or death, and to gather evidence to prosecute any person guilty of any violation of the law contributing to the happening of such an accident.

3. In conjunction with the Department of Motor Vehicles, to enforce the provisions of chapters 365, 366, 408, 482 to 486, inclusive, 487 and 706 of NRS.

~~4. [To maintain the Central Repository for Nevada Records of Criminal History and to carry out the provisions of chapter 179A of NRS.~~

~~—5.]~~ To enforce the provisions of laws and regulations relating to motor carriers, the safety of their vehicles and equipment, and their transportation of hazardous materials and other cargo.



~~[6-]~~ 5. To maintain the repository for information concerning hazardous materials in Nevada and to carry out its duties pursuant to chapter 459 of NRS concerning the transportation of hazardous materials.

~~[7-]~~ 6. To perform such other duties in connection with those specified in this section as may be imposed by the Director.

Sec. 4. 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 *Records and Technology 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 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, to the ~~[Department:]~~ *Division. 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 ~~[Department.—The Department]~~ *Division. The Division* shall delete all references in the Central Repository relating to that particular arrest.

4. The ~~[Department]~~ *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.

(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 ~~[Department]~~ *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) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

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

(5) 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.

➔ 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, charter school or private school for employment; or

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

↳ and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

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

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

↳ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

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

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

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

(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of



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1 children by any agency identified in subsection 2, and make
2 recommendations for any necessary changes in the manner of
3 collecting and processing statistical data by any such agency.

4 7. The Central Repository may:

5 (a) In the manner prescribed by the Director of the Department,
6 disseminate compilations of statistical data and publish statistical
7 reports relating to crime or the delinquency of children.

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

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

21 8. As used in this section:

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

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

29 (2) The fingerprints, voiceprint, retina image and iris image
30 of a person.

31 (b) "Private school" has the meaning ascribed to it in
32 NRS 394.103.

33 **Sec. 5.** NRS 179A.100 is hereby amended to read as follows:

34 179A.100 1. The following records of criminal history may
35 be disseminated by an agency of criminal justice without any
36 restriction pursuant to this chapter:

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

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

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

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



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

(c) Reported to the Central Repository.

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

(a) Reflect convictions only; or

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

4. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, *or a person or entity designated to receive the information on behalf of such an employer, the* information contained in a record of registration concerning an employee, prospective employee, volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, regardless of whether the employee, prospective employee, volunteer or prospective volunteer gives his written consent to the release of that information. The Central Repository shall disseminate such information in a manner that does not reveal the name of an individual victim of an offense. A request for information pursuant to this subsection must conform to the requirements of the Central Repository and must include:

(a) The name and address of the employer, and the name and signature of the person *or entity* requesting the notice on behalf of the employer;

(b) The name and address of the employer's facility in which the employee, prospective employee, volunteer or prospective volunteer is employed or volunteers or is seeking to become employed or volunteer; and

(c) The name and other identifying information of the employee, prospective employee, volunteer or prospective volunteer.

5. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, *or a person or entity designated to receive the information on behalf of such an employer,* the information described in subsection 4 of NRS 179A.190 concerning an employee, prospective employee, volunteer or prospective volunteer who gives his written consent to the release of that information if the employer submits a request in the manner set forth in NRS 179A.200 for obtaining a notice of information. The Central Repository shall search for and disseminate such



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1 information in the manner set forth in NRS 179A.210 for the
2 dissemination of a notice of information.

3 6. Except as otherwise provided in subsection 5, the provisions
4 of NRS 179A.180 to 179A.240, inclusive, do not apply to an
5 employer who requests information and to whom information is
6 disseminated pursuant to subsections 4 and 5.

7 7. Records of criminal history must be disseminated by an
8 agency of criminal justice upon request, to the following persons or
9 governmental entities:

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

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

16 (c) The State Gaming Control Board.

17 (d) The State Board of Nursing.

18 (e) The Private Investigator's Licensing Board to investigate an
19 applicant for a license.

20 (f) A public administrator to carry out his duties as prescribed in
21 chapter 253 of NRS.

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

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

27 (i) Any public utility subject to the jurisdiction of the Public
28 Utilities Commission of Nevada when the information is necessary
29 to conduct a security investigation of an employee or prospective
30 employee, or to protect the public health, safety or welfare.

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

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

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

42 (m) Prospective employers if the person who is the subject of
43 the information has given written consent to the release of that
44 information by the agency which maintains it.



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

(o) An agency which provides child welfare services, as defined in NRS 432B.030.

(p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative.

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

(r) The State Disaster Identification Team of the Division of Emergency Management of the Department.

(s) The Commissioner of Insurance.

(t) The Board of Medical Examiners.

(u) The State Board of Osteopathic Medicine.

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

Sec. 6. 1. This section and sections 1 to 4, inclusive, of this act become effective on July 1, 2007.

2. Section 5 of this act becomes effective on March 1, 2008.

