

ASSEMBLY BILL NO. 393—ASSEMBLYMEN DONDERO LOOP, DIAZ, SMITH; AIZLEY, BENITEZ-THOMPSON, BOBZIEN, BUSTAMANTE ADAMS, CARRILLO, CONKLIN, FRIERSON, MASTROLUCA AND OHRENSCHALL

MARCH 21, 2011

Referred to Committee on Education

SUMMARY—Requires criminal background investigations of educational personnel upon renewal of a license. (BDR 34-8)

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 educational personnel; requiring the board of trustees of each school district and the governing body of each charter school to adopt a policy requiring the licensed employees of the school district or charter school to report information concerning arrests for or convictions of certain crimes; requiring the Commission on Professional Standards in Education to include in the fee for the renewal of licensure of teachers and other educational personnel the amount required for processing the fingerprints of the applicant for renewal by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation; requiring the Central Repository to investigate the criminal background of each applicant for renewal of a license submitted to the Superintendent of Public Instruction; revising other provisions governing the renewal of licensure of teachers and other educational personnel; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Under existing law, the Department of Education is required to establish a
- 2 procedure for the notification, tracking and monitoring of the status of criminal
- 3 cases involving persons who are licensed by the Superintendent of Public



Instruction and for the reporting by a school district or charter school to the Department if a licensed employee is arrested for certain crimes. (NRS 391.053-391.059) **Section 1** of this bill requires the board of trustees of each school district and the governing body of each charter school to adopt a policy which requires a licensed employee of the school district or charter school to report to the school district or charter school if the employee is arrested for or convicted of a crime which is required to be reported pursuant to the policy.

Under existing law, an applicant for a license to teach must submit to the Superintendent of Public Instruction with his or her application a complete set of his or her fingerprints and written permission authorizing the Superintendent to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant. (NRS 391.033) Also under existing law, the Central Repository is required to notify the Superintendent of Public Instruction if the background check indicates that an applicant for licensure has been convicted of certain criminal violations. In addition, the Central Repository is required to notify a county school district, charter school or private school if the investigation of an employee of the school district, charter school or private school whose fingerprints are submitted to the Central Repository indicates that the person has been convicted of certain criminal violations. (NRS 179A.075) An applicant for renewal of a license issued by the Superintendent of Public Instruction is not required to undergo a subsequent background investigation of his or her criminal history upon renewal of the license.

Under existing law, the Commission on Professional Standards in Education is required to fix fees of not less than \$65 for the issuance and renewal of a license to teach. (NRS 391.040) Existing administrative regulations of the Commission prescribe a fee for: (1) initial licensure of \$110, plus the amount charged for the criminal history of the applicant; and (2) renewal of a license of \$80. (NAC 391.045, 391.070) **Section 3** of this bill requires the Commission to set the fees for renewal of a license to include the fees for processing the fingerprints of the applicant for renewal by the Central Repository and the Federal Bureau of Investigation. **Section 4** of this bill requires the Central Repository to investigate the criminal history of applicants for renewal of a license submitted to the Superintendent of Public Instruction. **Section 5** of this bill makes the provisions of the bill effective on July 1, 2011, for the purposes of adopting regulations and policies and performing any other preparatory administrative tasks and on January 1, 2012, for all other purposes.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

The board of trustees of each school district and the governing body of each charter school shall adopt a policy which requires a licensed employee of the school district or charter school to report to the school district or charter school if the employee is arrested for or convicted of a crime. The policy must include, without limitation, an identification of:

1. The crimes for which an arrest or conviction must be reported;



- 1 **2. The person to whom the report must be made; and**
- 2 **3. The time period after the arrest or conviction in which the**
- 3 **report must be made.**

4 **Sec. 2.** NRS 391.033 is hereby amended to read as follows:

5 391.033 1. All licenses for teachers and other educational
6 personnel are granted by the Superintendent of Public Instruction
7 pursuant to regulations adopted by the Commission and as
8 otherwise provided by law.

9 2. An application for the issuance of a license must include the
10 social security number of the applicant.

11 3. Every applicant for a license must submit with his or her
12 application a complete set of his or her fingerprints and written
13 permission authorizing the Superintendent to forward the
14 fingerprints to the Central Repository for Nevada Records of
15 Criminal History for its *initial* report on the criminal history of the
16 applicant *and for reports thereafter upon renewal of the license*
17 *pursuant to subsection 6 of NRS 179A.075*, and for submission to
18 the Federal Bureau of Investigation for its report on the criminal
19 history of the applicant.

20 4. The Superintendent may issue a provisional license pending
21 receipt of the reports of the Federal Bureau of Investigation and the
22 Central Repository for Nevada Records of Criminal History if the
23 Superintendent determines that the applicant is otherwise qualified.

24 5. A license must be issued to *, or renewed for, as applicable,*
25 an applicant if:

26 (a) The Superintendent determines that the applicant is
27 qualified;

28 (b) The reports on the criminal history of the applicant from the
29 Federal Bureau of Investigation and the Central Repository for
30 Nevada Records of Criminal History:

31 (1) Do not indicate that the applicant has been convicted of a
32 felony or any offense involving moral turpitude; or

33 (2) Indicate that the applicant has been convicted of a felony
34 or an offense involving moral turpitude but the Superintendent
35 determines that the conviction is unrelated to the position within the
36 county school district or charter school for which the applicant
37 applied ~~[]~~ *or for which he or she is currently employed, as*
38 *applicable; and*

39 (c) ~~[The]~~ *For initial licensure, the* applicant submits the
40 statement required pursuant to NRS 391.034.

41 **Sec. 3.** NRS 391.040 is hereby amended to read as follows:

42 391.040 1. The Commission shall fix fees of not less than
43 \$65 for the ~~[issuance and renewal]~~ :

44 (a) *Initial issuance* of a license ~~[]~~ *, which must include the fees*
45 *for processing the fingerprints of the applicant by the Central*



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1 *Repository for Nevada Records of Criminal History and the*
2 *Federal Bureau of Investigation; and*

3 *(b) Renewal of a license, which must include the fees for*
4 *processing the fingerprints of the applicant for renewal by the*
5 *Central Repository for Nevada Records of Criminal History and*
6 *the Federal Bureau of Investigation.*

7 2. The fee for issuing a duplicate license is the same as for
8 issuing the original.

9 ~~2.1~~ 3. The portion of each fee which represents the amount
10 charged by the Federal Bureau of Investigation for processing the
11 fingerprints of the applicant must be deposited with the State
12 Treasurer for credit to the appropriate account of the Department of
13 Public Safety. The remaining portion of the money received from
14 the fees must be deposited with the State Treasurer for credit to the
15 appropriate account of the Department of Education.

16 **Sec. 3.5.** NRS 391.053 is hereby amended to read as follows:

17 391.053 As used in NRS 391.053 to 391.059, inclusive, *and*
18 *section 1 of this act*, "arrest" has the meaning ascribed to it in
19 NRS 171.104.

20 **Sec. 3.7.** NRS 391.059 is hereby amended to read as follows:

21 391.059 Immunity from civil or criminal liability extends to
22 every person who, pursuant to NRS 391.053 to 391.059, inclusive,
23 *and section 1 of this act*, in good faith:

24 1. Participates in the making of a report;

25 2. Causes or conducts an investigation of a person who is
26 licensed pursuant to this chapter and who is arrested; or

27 3. Submits information to the Department concerning a person
28 who is licensed pursuant to this chapter and who is arrested.

29 **Sec. 4.** NRS 179A.075 is hereby amended to read as follows:

30 179A.075 1. The Central Repository for Nevada Records of
31 Criminal History is hereby created within the Records and
32 Technology Division of the Department.

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

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

37 (b) Submit the information collected to the Central Repository
38 in the manner approved by the Director of the Department.

39 3. Each agency of criminal justice shall submit the information
40 relating to records of criminal history that it creates or issues, and
41 any information in its possession relating to the genetic markers of a
42 biological specimen of a person who is convicted of an offense
43 listed in subsection 4 of NRS 176.0913, to the Division. The
44 information must be submitted to the Division:

45 (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.

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

(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 repositories of the United States and other states 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 427A.735 and 449.179; or



(5) About whom any agency of the State of Nevada or any political subdivision thereof is authorized by law 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 *the issuance or renewal of* 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



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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 fingerprints submitted pursuant to NRS 427A.735, 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 children by any agency identified in subsection 2 and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

7. The Central Repository may:

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

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

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

8. As used in this section:

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



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

4 (2) The fingerprints, voiceprint, retina image and iris image
5 of a person.

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

8 **Sec. 5.** This act becomes effective on July 1, 2011, for the
9 purposes of adopting any necessary regulations and policies and
10 performing any other preparatory administrative tasks that are
11 necessary to carry out the provisions of this act and on January 1,
12 2012, for all other purposes.

