

ASSEMBLY BILL NO. 420—ASSEMBLYMAN STEWART

MARCH 21, 2011

Referred to Committee on Government Affairs

SUMMARY—Revises the rights of members of the Nevada National Guard. (BDR 36-1033)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: No.

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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 the Nevada National Guard; providing for the confidentiality of personal information in certain documents recorded with a county recorder by a member of the Nevada National Guard; revising provisions governing the termination of employment of a member of the Nevada National Guard; prohibiting the commencement of civil actions against a member of the Nevada National Guard during certain periods; providing for a preference for certain employment with the government of this State for members of the Nevada National Guard; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the protection of personal information in recorded documents and for the access to such personal information by specified persons upon the death of the person whose personal information is at issue. (NRS 239B.030, 247.090) **Section 1** of this bill expressly provides for the confidentiality of personal information of a member of the Nevada National Guard contained in specified documents recorded with a county recorder, and allows access to that personal information by certain authorized persons.

Existing law prohibits the termination of the employment of a member of the Nevada National Guard and provides for the member's reinstatement after termination if the termination is because of certain active duty or service by the member. (NRS 412.139, 412.1395) **Sections 2 and 3** of this bill expand this prohibition against termination and this right of reinstatement to cover situations in



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which the termination of employment is because of the member's participation in required training, duty and meetings.

Existing law prohibits the arrest on civil process of a member of the Nevada National Guard while the member is at a location for military duty or traveling to or from that location. (NRS 412.154) **Section 4** of this bill prohibits the commencement of a civil action or proceeding against the member while the member assembles for training or participates in field training, active duty or active service or travels to or from that duty, service or training.

Existing law provides a preference in hiring for certain public employment for veterans of the Armed Forces of the United States. (NRS 284.260) **Section 5** of this bill provides a similar preference for members of the Nevada National Guard.

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

Section 1. Chapter 412 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this subsection and NRS 239B.030 and 247.090, a county recorder shall ensure that any personal information of a member of the Nevada National Guard contained in any document which is related to the member's military service and is recorded, filed or otherwise submitted to the county recorder by or on behalf of the member is maintained in a confidential manner. The county recorder may disclose the personal information to any person designated in writing by the member or, upon the member's death, by a person authorized by subsection 2 of NRS 247.090 to inspect and copy the document containing the personal information.

2. As used in this section, "personal information" has the meaning ascribed to it in NRS 603A.040.

Sec. 2. NRS 412.139 is hereby amended to read as follows:

412.139 1. An employer may not terminate the employment of a member of the Nevada National Guard because the member ~~is~~

;
(a) Assembles for training, participates in field training or active duty or otherwise meets as required pursuant to NRS 412.118; or

(b) Is ordered to active service or duty pursuant to NRS 412.122 or 412.124.

2. Any employer who violates subsection 1 is guilty of a misdemeanor.

3. In addition to any other remedy or penalty, the Labor Commissioner may impose against the employer an administrative penalty of not more than \$5,000 for each such violation.



1 **Sec. 3.** NRS 412.1395 is hereby amended to read as follows:
2 412.1395 If the employment of a member of the Nevada
3 National Guard is found to have been terminated as a result of the
4 member ~~being~~:

5 1. *Assembling for training, participating in field training or*
6 *active duty or otherwise meeting as required pursuant to NRS*
7 *412.118; or*

8 2. *Being* ordered to active service or duty pursuant to NRS
9 412.122 or 412.124,

10 ↳ the member is entitled to be immediately reinstated to his or her
11 position without loss of seniority or benefits, and to receive all
12 wages and benefits lost as a result of the termination.

13 **Sec. 4.** NRS 412.154 is hereby amended to read as follows:

14 412.154 1. Members of the Nevada National Guard ordered
15 into active service of the State pursuant to this chapter are not liable
16 civilly or criminally for any act done by them in the performance of
17 their duty. When an action or proceeding of any nature is
18 commenced in any court by any person against any officer of the
19 militia for any act done by the officer in his or her official capacity
20 in the discharge of any duty pursuant to this chapter, or an alleged
21 omission by the officer to do an act which it was his or her duty to
22 perform, or against any person acting pursuant to the authority or
23 order of such an officer, or by virtue of any warrant issued by the
24 officer pursuant to law, the defendant:

25 (a) May have counsel of his or her own selection, with the cost
26 of such counsel to be borne by the defendant; or

27 (b) Must be defended by the Attorney General in civil actions
28 and by the State Judge Advocate in criminal actions, with the cost of
29 such counsel to be paid out of the Reserve for Statutory
30 Contingency Account upon approval by the State Board of
31 Examiners unless the defendant was found to have been criminally
32 negligent or to have acted wantonly or maliciously, in which case
33 the cost of such counsel must be borne by the defendant,

34 ↳ and may require the person instituting or prosecuting the action
35 or proceeding to file security for the payment of costs that may be
36 awarded to the defendant therein.

37 2. A defendant in whose favor a final judgment is rendered in
38 an action or a final order is made in a special proceeding shall
39 recover his or her costs.

40 3. No member of the Nevada National Guard may be arrested
41 on any civil process while going to, remaining at, or returning from
42 any place at which he or she is required to attend for military duty.

43 4. *A person may not commence a civil action or proceeding*
44 *against a member of the Nevada National Guard during any*
45 *period in which the member:*



1 (a) *Assembles for training, participates in field training or*
2 *active duty or otherwise meets as required pursuant to*
3 *NRS 412.118;*

4 (b) *Is ordered to active service or duty pursuant to NRS*
5 *412.122 or 412.124; or*

6 (c) *Is going to or returning from any duty, service or training*
7 *specified in paragraph (a) or (b).*

8 **Sec. 5.** NRS 284.260 is hereby amended to read as follows:

9 284.260 1. In establishing the lists of eligible persons, certain
10 preferences must be allowed for ~~{veterans}~~ :

11 (a) *Veterans* not dishonorably discharged from the Armed
12 Forces of the United States. For veterans with disabilities, 10 points
13 must be added to the passing grade achieved on the examination.
14 For ex-servicemen and women who have not suffered disabilities,
15 and for the widows and widowers of veterans, 5 points must be
16 added to the passing grade achieved on the examination.

17 (b) *Members of the Nevada National Guard. For a member of*
18 *the Nevada National Guard who submits a letter of*
19 *recommendation from the commanding officer of the member's*
20 *unit, 5 points must be added to the passing grade achieved on the*
21 *examination.*

22 2. Any person qualifying for preference points pursuant to
23 subsection 1 is entitled to have the points applied to any open
24 competitive examination in the classified service, but only to one
25 promotional examination.

26 3. For the purposes of this section, "veteran" has the meaning
27 ascribed to "eligible veteran" in 38 U.S.C. § 4211.

28 **Sec. 6.** This act becomes effective on July 1, 2011.

