Amendment No. 880

Assembly Amendment to Assembly Bill No. 331	(BDR 52-831)
Proposed by: Assemblywoman Bustamante Adams	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐		Adopted	☐	Lost	☐	
Concurred In	☐	Not	☐		Concurred In	☐	Not	☐	
Receded	☐	Not	☐		Receded	☐	Not	☐	

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) **green bold underlining** is newly added transitory language.

AAK/WLK Date: 6/4/2011

A.B. No. 331—Makes various changes concerning the use of consumer reports.
(BDR 52-831)

* A AB331 880 *

ASSEMBLY BILL NO. 331–ASSEMBLYMEN CONKLIN, KIRKPATRICK **;** ~~[AND]~~ SMITH **AND BUSTAMANTE ADAMS**

MARCH 21, 2011

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Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning the use of consumer reports. (BDR 52-831)

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 employment; prohibiting a person from ~~[procuring]~~ **requesting or considering** a consumer report for purposes relating to employment except under certain circumstances; revising provisions relating to the release of a consumer report that is subject to a security freeze; providing civil remedies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person who complies with the requirements of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq., and chapter 598C of NRS is allowed to obtain a consumer report for purposes relating to the employment of the consumer. ~~[Section]~~ **Sections 1 and 2.5** of this bill ~~[prohibits]~~ **prohibit** a person from ~~[procuring]~~ **requesting or considering** a consumer report for purposes of evaluating a consumer for employment, promotion, reassignment or retention as an employee unless: (1) the use of the report is required or authorized by state or federal law; (2) the person reasonably believes that the consumer has engaged in specific ~~[illegal]~~ activity which **may constitute a violation of state or federal law and** is likely to be reflected in the ~~[consumer]~~ report; or (3) the information in the report is ~~[substantially]~~ **reasonably** related to the ~~[evaluation of the consumer's likely performance of the duties of the particular]~~ position for which ~~[he or she]~~ **the consumer** is being evaluated. ~~[Section 1 also provides that a person who is prohibited from procuring a consumer report for purposes related to employment is also prohibited from requesting a consumer to furnish his or her consumer report to the person or to authorize a reporting agency to furnish the report for those purposes.]~~

Existing law provides that if a consumer places a security freeze on his or her file maintained by a credit reporting agency, the agency is not allowed to release the consumer report without the consumer's consent except for certain purposes, which include certain purposes relating to employment of the consumer. (NRS 598C.350, 598C.380) **Section 2** of this bill revises the scope of that exception to conform with **section 1** of this bill.

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

Section 1. Chapter 598C of NRS is hereby amended by adding thereto a new section to read as follows:

~~[1.]~~ A person ~~[shall not procure]~~ may request or consider a consumer report for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee ~~[unless:~~

~~(a)]~~ if:

1. The person is required or authorized, pursuant to state or federal law, to use a consumer report for that purpose;

~~[(b)]~~ 2. The person reasonably believes that the consumer has engaged in specific ~~[illegal]~~ activity which ~~[is likely to be reflected in the consumer report;]~~ may constitute a violation of state or federal law; or

~~[(c)]~~ 3. The information contained in the consumer report is ~~[substantially]~~ reasonably related to the ~~[evaluation of the consumer's likely performance of the duties of a particular]~~ position ~~[.]~~ for which the consumer is being evaluated for employment, promotion, reassignment or retention as an employee. The information in the consumer report shall be deemed to be ~~[substantially]~~ reasonably related to such an evaluation if the duties of the position involve:

~~[(1)]~~ (a) The care, custody and handling of or responsibility for money, financial accounts, corporate credit or debit cards, or other assets;

~~[(2)]~~ (b) Access to trade secrets or other proprietary or confidential information;

~~[(3) Significant managerial responsibility; or~~

~~(4)]~~

(c) Managerial or supervisory responsibility;

(d) The direct exercise of law enforcement authority as an employee of a state or local law enforcement agency ~~[.]~~ ;

(e) The care, custody and handling of or responsibility for the personal information, as defined in NRS 603A.040, of another person;

(f) Access to the personal financial information of another person;

(g) Employment with a financial institution that is chartered under federal or state law; or

(h) Employment with a licensed gaming establishment, as defined in NRS 463.0169.

~~[2. A person who is prohibited from procuring a consumer report pursuant to subsection 1 shall not request the consumer to furnish his or her consumer report to the person or to authorize a reporting agency to furnish the consumer report to the person.]~~

Sec. 2. NRS 598C.380 is hereby amended to read as follows:

598C.380 Notwithstanding that a security freeze has been placed in the file of a consumer, a reporting agency may release the consumer report of the consumer to:

1. A person with whom the consumer has an existing business relationship, or the subsidiary, affiliate or agent of that person, for any purpose relating to that business relationship.

2. A licensed collection agency to which an account of the consumer has been assigned for the purposes of collection.

3. A person with whom the consumer has an account or contract or to whom the consumer has issued a negotiable instrument, or the subsidiary, affiliate, agent,

assignee or prospective assignee of that person, for purposes relating to that account, contract or negotiable instrument.

4. A person seeking to use information in the file of the consumer for the purposes of prescreening pursuant to the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.

5. A subsidiary, affiliate, agent, assignee or prospective assignee of a person to whom access has been granted pursuant to NRS 598C.350 for the purposes of facilitating the extension of credit.

6. A person seeking to provide the consumer with a copy of the consumer report or the credit score of the consumer upon the request of the consumer.

7. A person administering a credit file monitoring subscription service to which the consumer has subscribed.

8. A person requesting the consumer report pursuant to a court order, warrant or subpoena.

9. A federal, state or local governmental entity, agency or instrumentality that is acting within the scope of its authority, including, without limitation, an agency which is seeking to collect child support payments pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. §§ 651 et seq.

10. A person holding a license issued by the Nevada Gaming Commission pursuant to title 41 of NRS, or the subsidiary, affiliate, agent, assignee or prospective assignee of that person, for purposes relating to any activities conducted pursuant to the license.

11. ~~[An]~~ ***Except as otherwise provided in section 1 of this act, an*** employer, or the subsidiary, affiliate, agent, assignee or prospective assignee of that employer, for purposes of:

(a) Preemployment screenings relating to the consumer; or

(b) Decisions or investigations relating to the consumer's current or former employment with the employer.

Sec. 2.5. **Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Except as otherwise provided in section 1 of this act, a person shall not request or consider a consumer report for the purpose of evaluating any other person for employment, promotion, reassignment or retention as an employee.

2. As used in this section, "consumer report" has the meaning ascribed to it in NRS 598C.060.

Sec. 3. This act becomes effective on July 1, 2011.