

Amendment No. 981

Senate Amendment to Assembly Bill No. 331 First Reprint (BDR 52-831)

Proposed by: Senate Committee on Commerce, Labor and Energy**Amends:** Summary: Yes 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.

WLK



Date: 6/6/2011

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



ASSEMBLY BILL NO. 331—ASSEMBLYMEN CONKLIN,
KIRKPATRICK; SMITH AND BUSTAMANTE ADAMS

MARCH 21, 2011

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning the use of consumer ~~reports.~~
information. (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 requesting or considering a ~~consumer~~ credit report or credit history 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. ~~{Sections 1 and 2.5}~~ **Section 2.7** of this bill ~~{prohibit}~~ **prohibits** a person from requesting or considering a ~~consumer~~ credit report or credit history for purposes of evaluating a ~~consumer~~ prospective or current employee for employment, promotion, reassignment or retention ~~{as an employee}~~ unless: (1) the use of the report or history is required or authorized by state or federal law; (2) the person reasonably believes that the ~~consumer~~ prospective or current employee has engaged in specific activity which may constitute a violation of state or federal law and is likely to be reflected in the report ~~{H}~~ or history; or (3) the information in the report or history is reasonably related to the position for which the ~~consumer~~ prospective or current employee is being evaluated.

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 {H}~~ section 2.7 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:~~

~~— A person may request or consider a consumer report for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee if:~~

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

~~2. The person reasonably believes that the consumer has engaged in specific activity which may constitute a violation of state or federal law; or~~

~~3. The information contained in the consumer report is reasonably related to the 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 reasonably related to such an evaluation if the duties of the position involve~~

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

~~— (b) Access to trade secrets or other proprietary or confidential information;~~

~~— (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. (Deleted by amendment.)~~

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. ~~Amended~~ Except as otherwise provided in section ~~44~~ 2.7 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.~~ (Deleted by amendment.)

Sec. 2.7. Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not request or consider, for the purpose of evaluating a prospective or current employee for employment, promotion, reassignment or retention as an employee, a credit report or credit history unless:

(a) The person is required or authorized, pursuant to state or federal law, to use a credit report or credit history for that purpose;

(b) The person reasonably believes that the prospective or current employee has engaged in specific activity which may constitute a violation of state or federal law; or

(c) The information contained in the credit report or credit history is reasonably related to the position for which the prospective or current employee is being evaluated for employment, promotion, reassignment or retention. The information in the credit report or credit history shall be deemed to be reasonably related to such an evaluation if:

(1) The duties of the position involve:

(I) The care, custody and handling of or responsibility for money, financial accounts, corporate credit or debit cards, or other assets;

(II) Access to trade secrets or other proprietary or confidential information;

(III) Managerial or supervisory responsibility;

(IV) The direct exercise of law enforcement authority as an employee of a state or local law enforcement agency;

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

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

or

(2) The employment is with:

1 (I) A financial institution that is chartered under federal or state law;
2 or

3 (II) A licensed gaming establishment, as defined in NRS 463.0169.

4 2. As used in this section:

5 (a) "Credit report or credit history" means any communication, written or
6 oral, by a reporting agency regarding a prospective or current employee's credit
7 worthiness, credit standing or credit capacity.

8 (b) "Person" has the meaning ascribed to it in NRS 598C.090.

9 (c) "Reporting agency" has the meaning ascribed to it in NRS 598C.100.

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