

Amendment No. 522

Assembly Amendment to Assembly Bill No. 536

(BDR 38-201)

Proposed by: Assembly Committee on Health and Human Services**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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.

RBL



Date: 4/25/2011

A.B. No. 536—Revises provisions relating to background checks for certain persons who work with children. (BDR 38-201)



ASSEMBLY BILL NO. 536—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON
CHILD WELFARE AND JUVENILE JUSTICE)

MARCH 28, 2011

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to background checks for certain persons who work with children. (BDR 38-201)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 the protection of children; requiring an investigation of the criminal history of certain persons associated with certain facilities that provide residential services to children; requiring such a facility to terminate the employment of or remove from the facility certain persons based on the results of an investigation of the person's criminal history; requiring ~~such a facility to maintain~~ *the maintenance of* records concerning *the* employees and residents of the facility; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain types of facilities which provide residential services to children are required to obtain background investigations for holders of licenses, employees and certain residents of the facility, including, without limitation, foster homes and child care facilities. (NRS 424.031, 432A.170) Existing law does not require similar background investigations to be conducted for holders of licenses and employees of other types of facilities which provide residential services to children, including, without limitation, juvenile justice facilities, facilities that provide mental health treatment to children, and other medical and related facilities which provide residential services to children. (Chapters 62B and 433B of NRS, NRS 449.176, 449.179) This bill prescribes, to the extent applicable, standard requirements for background investigations, records of background investigations, supervision of persons pending background investigations and termination of the employment of persons who have committed certain crimes.

Sections 2-6 of this bill prohibit a person from having unsupervised contact with a child pending the outcome of his or her background investigation and require foster homes to terminate the employment of an employee or remove a resident who is over 18 years of age if the person has been convicted of a crime prescribed in **section 4**. **Sections 2-6** also require foster homes to maintain certain records relating to background investigations which are conducted for employees and residents of the homes. A background investigation must be conducted every 5 years after the initial investigation.

Sections 8-10 of this bill require child care facilities to maintain certain records for certain employees, residents and participants of the facilities and prohibit unsupervised contact with a child pending the results of a background investigation. A background investigation must be conducted every 5 years after the initial investigation.

Sections 12-14 of this bill require the employees of public or private institutions and agencies to which a juvenile court commits a child to ~~conduct~~ receive background investigations ~~, [of all employees of the institution or agency].~~ **Sections 12-14** also prohibit a person from having unsupervised contact with a child pending the outcome of his or her background investigation and require institutions and agencies to terminate the employment of employees who have been convicted of a crime prescribed in **section 12**. **Sections 12-14** further require ~~[institutions and agencies to maintain]~~ the maintenance of certain records relating to the background investigations which are conducted for employees. A background investigation must be conducted every 5 years after the initial investigation.

Sections 17-19 of this bill require certain facilities which provide residential mental health treatment to children to conduct background investigations of all employees of the facility. **Sections 17-19** also prohibit a person from having unsupervised contact with a child pending the outcome of his or her background investigation and require such facilities to terminate the employment of employees who have been convicted of a crime prescribed in **section 17**. **Sections 17-19** also require those facilities to maintain certain records relating to the background investigations which are conducted for employees. A background investigation must be conducted every 5 years after the initial investigation.

Under existing law, each applicant for a license to operate and each employee of a facility for intermediate care, facility for skilled nursing, residential facility for groups, agency to provide personal care services in the home or home for individual residential care must submit to a background investigation. (NRS 449.173-449.188) These provisions specifically exclude a facility for the treatment of abuse of alcohol or drugs under existing law. **Sections 20-24** of this bill include other medical facilities and facilities for the treatment of abuse of alcohol or drugs if those facilities provide residential services to children. **Sections 20-24** also amend provisions relating to unsupervised contact with children and the maintenance of records to be consistent with this bill.

Section 25 of this bill requires persons who are required to submit to background investigations pursuant to the amendatory provisions of this bill to submit to such investigations on or before October 1, 2011, and authorizes such persons to have contact with children without supervision pending the results of the investigation.

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

Section 1. Chapter 424 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *Upon receiving information from the licensing authority or its designee pursuant to NRS 424.033 or evidence from any other source that an employee of an applicant for a license to conduct a foster home or a person who is licensed to conduct a foster home or a resident of an applicant or licensee who is 18 years of age or older has been convicted of a crime listed in NRS 424.031, the applicant or licensee shall terminate the employment of the employee or remove the resident from the foster home after allowing the employee or resident time to correct the information as required pursuant to subsection 2.*

2. If an employee or resident believes that the information provided pursuant to subsection 1 is incorrect, the employee or resident must inform the applicant or licensee immediately. An applicant or licensee that is so informed shall give the employee or resident 30 days to correct the information.

3. During the period in which an employee or resident seeks to correct information pursuant to subsection 2, it is within the discretion of the applicant

1 *or licensee whether to allow the employee or resident to continue to work for or*
2 *reside at the foster home, as applicable, except that the employee or resident shall*
3 *not have contact with a child in the foster home without supervision during any*
4 *such period.*

5 **Sec. 3. 1. Each applicant for a license to conduct a foster home and each**
6 **person licensed to conduct a foster home shall maintain records of the**
7 **information concerning its employees and any residents of the foster home who**
8 **are 18 years of age or older that is collected pursuant to NRS 424.031 and**
9 **424.033 and section 2 of this act, including, without limitation:**

10 *(a) A copy of the fingerprints that were submitted to the Central Repository*
11 *for Nevada Records of Criminal History and a copy of the written authorization*
12 *that was provided by the employee or resident;*

13 *(b) Proof that the fingerprints of the employee or resident were submitted to*
14 *the Central Repository; and*

15 *(c) Any other documentation of the information collected pursuant to NRS*
16 *424.031 and 424.033 and section 2 of this act.*

17 **2. The records maintained pursuant to subsection 1 must be:**

18 *(a) Maintained for the period of the employee's employment with or*
19 *resident's presence at the foster home; and*

20 *(b) Made available for inspection by the licensing authority or its approved*
21 *designee at any reasonable time, and copies thereof must be furnished to the*
22 *licensing authority upon request.*

23 **Sec. 4. NRS 424.031 is hereby amended to read as follows:**

24 **424.031 1. The licensing authority or a person or entity designated by the**
25 **licensing authority shall obtain from appropriate law enforcement agencies**
26 **information on the background and personal history of each applicant for a license**
27 **to conduct a foster home, ~~[prospective] person who is licensed to conduct a foster~~**
28 **~~home,~~ employee of that applicant or ~~[of a person who is licensed to conduct a foster~~**
29 **~~home.] licensee,~~ and resident of a foster home who is 18 years of age or older, to**
30 **determine whether the person investigated has been arrested for or convicted of**
31 **~~[any crime.] :~~**

32 *(a) Murder, voluntary manslaughter or mayhem;*

33 *(b) Any other felony involving the use of a firearm or other deadly weapon;*

34 *(c) Assault with intent to kill or to commit sexual assault or mayhem;*

35 *(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent*
36 *exposure or any other sexually related crime;*

37 *(e) Abuse or neglect of a child or contributory delinquency;*

38 *(f) A violation of any federal or state law regulating the possession,*
39 *distribution or use of any controlled substance or any dangerous drug as defined*
40 *in chapter 454 of NRS;*

41 *(g) Abuse, neglect, exploitation or isolation of older persons or vulnerable*
42 *persons, including, without limitation, a violation of any provision of NRS*
43 *200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits*
44 *the same or similar conduct; or*

45 *(h) Any offense involving fraud, theft, embezzlement, burglary, robbery,*
46 *fraudulent conversion or misappropriation of property within the immediately*
47 *preceding 7 years.*

48 **2. The licensing authority or its approved designee may charge each person**
49 **investigated pursuant to this section for the reasonable cost of that investigation.**

50 **3. Unless a preliminary Federal Bureau of Investigation Interstate**
51 **Identification Index name-based check of the records of criminal history has**
52 **been conducted pursuant to NRS 424.039, a person who is required to submit to**
53 **an investigation pursuant to this section shall not have contact with a child in a**

1 *foster home without supervision before the investigation of the background and*
2 *personal history of the person has been conducted.*

3 *4. The licensing authority or its designee shall conduct an investigation of*
4 *each employee and resident pursuant to this section at least once every 5 years*
5 *after the initial investigation.*

6 **Sec. 5.** NRS 424.033 is hereby amended to read as follows:

7 424.033 1. Each applicant for a license to conduct a foster home,
8 ~~prospective~~ *person who is licensed to conduct a foster home*, employee of that
9 applicant or ~~of a person who is licensed to conduct a foster home.~~ *licensee*, or
10 resident of a foster home who is 18 years of age or older must submit to the
11 licensing authority or its approved designee:

12 (a) A complete set of fingerprints and written permission authorizing the
13 licensing authority or its approved designee to forward those fingerprints to the
14 Central Repository for Nevada Records of Criminal History for submission to the
15 Federal Bureau of Investigation for its report to enable the licensing authority or its
16 approved designee to conduct an investigation pursuant to NRS 424.031; and

17 (b) Written permission to conduct a child abuse and neglect screening.

18 2. For each person who submits the documentation required pursuant to
19 subsection 1, the licensing authority or its approved designee shall conduct a child
20 abuse and neglect screening of the person in every state in which the person has
21 resided during the immediately preceding 5 years.

22 3. The licensing authority or its approved designee may exchange with the
23 Central Repository or the Federal Bureau of Investigation any information
24 respecting the fingerprints submitted.

25 4. The Division shall assist the licensing authority of another state that is
26 conducting a child abuse and neglect screening of a person who has resided in this
27 State by providing information which is necessary to conduct the screening if the
28 person who is the subject of the screening has signed a written permission
29 authorizing the licensing authority to conduct a child abuse and neglect screening.
30 The Division may charge a fee for providing such information in an amount which
31 does not exceed the actual cost to the Division to provide the information.

32 5. When a report from the Federal Bureau of Investigation is received by the
33 Central Repository, it shall immediately forward a copy of the report to the
34 licensing authority or its approved designee.

35 *6. Upon receiving a report pursuant to this section, the licensing authority*
36 *or its approved designee shall determine whether the person has been convicted*
37 *of a crime listed in NRS 424.031.*

38 *7. The licensing authority shall immediately inform the applicant for a*
39 *license to conduct a foster home or the person who is licensed to conduct a foster*
40 *home whether an employee or resident of the foster home has been convicted of a*
41 *crime listed in NRS 424.031.*

42 *8. The licensing authority may deny an application for a license to operate*
43 *a foster home or may suspend or revoke such a license if the licensing authority*
44 *determines that the applicant or licensee has been convicted of a crime listed in*
45 *NRS 424.031 or has failed to terminate an employee or remove a resident of the*
46 *foster home who is 18 years of age or older and has been convicted of any crime*
47 *listed in NRS 424.031.*

48 **Sec. 6.** NRS 424.090 is hereby amended to read as follows:

49 424.090 The provisions of NRS 424.020 to 424.090, inclusive, *and sections 2*
50 *and 3 of this act* do not apply to homes in which:

51 1. Care is provided only for a neighbor's or friend's child on an irregular or
52 occasional basis for a brief period, not to exceed 90 days.

53 2. Care is provided by the legal guardian.

3. Care is provided for an exchange student.
4. Care is provided to enable a child to take advantage of educational facilities that are not available in his or her home community.

5. Any child or children are received, cared for and maintained pending completion of proceedings for adoption of such child or children, except as otherwise provided in regulations adopted by the Division.

6. Except as otherwise provided in regulations adopted by the Division, care is voluntarily provided to a minor child who is:

(a) Related to the caregiver by blood, adoption or marriage; and

(b) Not in the custody of an agency which provides child welfare services.

7. Care is provided to a minor child who is in the custody of an agency which provides child welfare services pursuant to chapter 432B of NRS if:

(a) The caregiver is related to the child within the fifth degree of consanguinity; and

(b) The caregiver is not licensed pursuant to the provisions of NRS 424.020 to 424.090, inclusive, ~~§~~, and sections 2 and 3 of this act.

Sec. 7. NRS 432.0125 is hereby amended to read as follows:

432.0125 1. The Administrator shall appoint, with the approval of the Director, a chief of each of the bureaus in the Division. The chiefs are designated respectively as:

(a) The Superintendent of the Nevada Youth Training Center;

(b) The Superintendent of the Caliente Youth Center;

(c) The Chief of the Bureau of Services for Child Care; and

(d) The Chief of the Youth Parole Bureau.

2. The Administrator is responsible for the administration, through the Division, of the provisions of chapters 63 and 424 of NRS, NRS 127.220 to 127.310, inclusive, 432.010 to 432.085, inclusive, and 433B.010 to 433B.350, inclusive, and sections 17, 18 and 19 of this act and all other provisions of law relating to the functions of the Division, but is not responsible for the professional activities of the components of the Division except as specifically provided by law.

Sec. 8. NRS 432A.170 is hereby amended to read as follows:

432A.170 1. The Bureau may, upon receipt of an application for a license to operate a child care facility, conduct an investigation into the:

(a) Buildings or premises of the facility and, if the application is for an outdoor youth program, the area of operation of the program;

(b) Qualifications and background of the applicant or the employees of the applicant;

(c) Method of operation for the facility; and

(d) Policies and purposes of the applicant.

2. The Bureau shall secure from appropriate law enforcement agencies information on the background and personal history of every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, to determine whether the person has been convicted of:

(a) Murder, voluntary manslaughter or mayhem;

(b) Any other felony involving the use of a firearm or other deadly weapon;

(c) Assault with intent to kill or to commit sexual assault or mayhem;

(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(e) Abuse or neglect of a child or contributory delinquency;

(f) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(g) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct; or

(h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years.

3. The Bureau shall request information concerning every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, from ~~the~~ :

(a) *The Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report ~~for~~ pursuant to NRS 432A.175; and*

(b) *The Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against any of them.*

4. The Bureau may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

5. The information required to be obtained pursuant to subsections 2 and 3 must be requested concerning an:

(a) Employee of an applicant or licensee, resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older not later than 3 days after the employee is hired, the residency begins or the participant begins participating in the program, and then at least once every ~~for~~ 5 years thereafter.

(b) Applicant at the time that an application is submitted for licensure, and then at least once every ~~for~~ 5 years after the license is issued.

6. A person who is required to submit to an investigation required pursuant to this section shall not have contact with a child in a child care facility without supervision before the investigation of the background and personal history of the person has been conducted.

Sec. 9. NRS 432A.1755 is hereby amended to read as follows:

432A.1755 1. Upon receiving information pursuant to NRS 432A.175 from the Central Repository for Nevada Records of Criminal History or the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 or evidence from any other source that an employee of an applicant for a license to operate a child care facility or a licensee, or a resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him or her, the applicant or licensee shall terminate the employment of the employee or remove the resident from the facility or participant from the outdoor youth program after allowing the employee, resident or participant time to correct the information as required pursuant to subsection 2.

2. If an employee, resident or participant believes that the information provided to the applicant or licensee pursuant to subsection 1 is incorrect, the employee, resident or participant must inform the applicant or licensee immediately. The applicant or licensee shall give any such employee, resident or participant 30 days to correct the information.

3. During any period in which an employee, resident or participant seeks to correct information pursuant to subsection 2, it is within the discretion of the

applicant or licensee whether to allow the employee, resident or participant to continue to work for or reside at the child care facility or participate in the outdoor youth program, as applicable ~~to~~, *except that the employee, resident or participant shall not have contact with a child without supervision during such a period.*

Sec. 10. NRS 432A.1785 is hereby amended to read as follows:

432A.1785 1. Each applicant for a license to operate a child care facility and licensee shall maintain records of the information concerning its employees and any residents of the child care facility or participants in any outdoor youth program who are 18 years of age or older that is collected pursuant to NRS 432A.170 and 432A.175, including, without limitation:

(a) *A copy of the fingerprints that were submitted to the Central Repository for Nevada Records of Criminal History;*

(b) Proof that the applicant or licensee submitted fingerprints to the Central Repository; ~~for its report;~~ and

~~(b)~~ (c) The written authorization to obtain information from the *Central Repository and the* Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100.

2. The records maintained pursuant to subsection 1 must be ~~made~~:

(a) *Maintained for the period of the employee's employment with or the resident's presence at the child care facility or the participant's presence in the outdoor youth program; and*

(b) *Made* available for inspection by the Bureau at any reasonable time ~~to~~ and copies thereof must be furnished to the Bureau upon request.

Sec. 11. Chapter 62B of NRS is hereby amended by adding thereto the provisions set forth as sections ~~11.2, 11.3 and~~ *11.5 to 14, inclusive*, of this act.

Sec. 11.5. *As used in sections 11.5 to 14, inclusive, of this act, "licensing authority" means the governmental entity which licenses and regulates a private institution to which a juvenile court commits a child, including without limitation, a facility for the detention of children.*

Sec. 11.7. *The provisions of sections 11.5 to 14, inclusive, of this act do not apply to a private institution to which a juvenile court commits a child, including without limitation, a facility for the detention of children, if the private institution is required to comply with similar requirements as a condition for licensure in this State.*

Sec. 12. 1. *A public ~~for private~~ institution or agency to which a juvenile court commits a child ~~to~~ or the licensing authority of a private institution to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall secure from appropriate law enforcement agencies information on the background and personal history of each employee of the institution or agency to determine whether the employee has been convicted of:*

(a) *Murder, voluntary manslaughter or mayhem;*

(b) *Any other felony involving the use of a firearm or other deadly weapon;*

(c) *Assault with intent to kill or to commit sexual assault or mayhem;*

(d) *Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;*

(e) *Abuse or neglect of a child or contributory delinquency;*

(f) *A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;*

(g) *Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS*

200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct; or

(h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years.

2. An employee of the public or private institution or agency must submit to the public institution or agency ~~to enable the institution or agency to conduct an investigation pursuant to subsection 1,~~ or the licensing authority, as applicable, two complete sets of fingerprints and written authorization to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. The public institution or agency or the licensing authority, as applicable may exchange with the Central Repository or the Federal Bureau of Investigation any information concerning the fingerprints submitted.

4. The public institution or agency or the licensing authority, as applicable, may charge an employee investigated pursuant to this section for the reasonable cost of that investigation.

5. When a report from the Federal Bureau of Investigation is received by the Central Repository, the Central Repository shall immediately forward a copy of the report to the public institution or agency ~~or the licensing authority, as applicable,~~ for a determination of whether the employee has been convicted of a crime listed in subsection 1.

6. A person who is required to submit to an investigation required pursuant to this section shall not have contact with a child without supervision in a public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, before the investigation of the background and personal history of the person has been conducted.

7. The public institution or agency or the licensing authority, as applicable, shall conduct an investigation of each employee of the institution or agency pursuant to this section at least once every 5 years after the initial investigation.

Sec. 13. 1. Upon receiving information from the Central Repository for Nevada Records of Criminal History pursuant to section 12 of this act or evidence from any other source that an employee of a public ~~for private~~ institution or agency to which a juvenile court commits a child ~~or the licensing authority of a private institution to which a juvenile court commits a child,~~ including, without limitation, a facility for the detention of children, has been convicted of a crime listed in section 12 of this act ~~for the~~ :

(a) The public institution or agency shall terminate the employment of the employee after allowing the employee time to correct the information as required pursuant to subsection 2 ~~for~~ ; or

(b) The licensing authority of the private institution shall inform the private institution of the receipt of the information or evidence, and the institution shall terminate the employment of the employee after allowing the employee time to correct the information as required pursuant to subsection 2.

2. If an employee believes that the information provided to the public institution or agency or the licensing authority by the Central Repository pursuant to ~~subsection 1~~ section 12 of this act is incorrect, the employee must inform ~~the~~ his or her employing institution or agency immediately. An institution or agency that is so informed shall give the employee a reasonable amount of time of not less than 30 days to correct the information.

3. During the period in which an employee seeks to correct information pursuant to subsection 2, it is within the discretion of the employing institution or

1 agency whether to allow the employee to continue to work for the institution or
2 agency, as applicable, except that the employee shall not have contact with a
3 child in the institution or agency without supervision during such period.

4 **Sec. 14. 1.** Each public ~~for private~~ institution or agency to which a
5 juvenile court commits a child ~~for~~ and each licensing authority of a private
6 institution to which a juvenile court commits a child, including, without
7 limitation, a facility for the detention of children, and each licensing agency shall
8 maintain accurate records of the information concerning an employee collected
9 pursuant to sections 12 and 13 of this act for the period of the employee's
10 employment with ~~the~~ his or her employing institution or agency, including,
11 without limitation:

12 (a) A copy of the fingerprints that were submitted to the Central Repository
13 and a copy of the written authorization that was provided by the employee;

14 (b) Proof that the fingerprints of the employee were submitted to the Central
15 Repository; and

16 (c) Any other documentation of the information collected pursuant to
17 sections 12 and 13 of this act.

18 2. The records maintained pursuant to subsection 1 must be:

19 (a) Maintained for the period of the employee's employment with ~~the~~ his or
20 her employing institution or agency; and

21 (b) Made available for inspection by the Division of Child and Family
22 Services at any reasonable time, and copies thereof must be furnished to the
23 Division upon request.

24 **Sec. 15.** NRS 179A.075 is hereby amended to read as follows:

25 179A.075 1. The Central Repository for Nevada Records of Criminal
26 History is hereby created within the Records and Technology Division of the
27 Department.

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

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

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

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

39 (a) Through an electronic network;

40 (b) On a medium of magnetic storage; or

41 (c) In the manner prescribed by the Director of the Department,

42 within the period prescribed by the Director of the Department. If an agency has
43 submitted a record regarding the arrest of a person who is later determined by the
44 agency not to be the person who committed the particular crime, the agency shall,
45 immediately upon making that determination, so notify the Division. The Division
46 shall delete all references in the Central Repository relating to that particular arrest.

47 4. The Division shall, in the manner prescribed by the Director of the
48 Department:

49 (a) Collect, maintain and arrange all information submitted to it relating to:

50 (1) Records of criminal history; and

51 (2) The genetic markers of a biological specimen of a person who is
52 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 ~~424.031~~, 427A.735, ~~432A.170~~ and 449.179 ~~and~~ *and sections 12 and 17 of this act;* 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 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 fingerprints submitted pursuant to NRS 424.031, 427A.735, 432A.170, 449.176 or 449.179 **or sections 12 or 17 of this act.**

(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:

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

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

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

1 **Sec. 16.** Chapter 433B of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 17, 18 and 19 of this act.

3 **Sec. 17. 1.** *A division facility which provides residential treatment to*
4 *children shall secure from appropriate law enforcement agencies information on*
5 *the background and personal history of an employee of the facility to determine*
6 *whether the employee has been convicted of:*

7 (i) *Murder, voluntary manslaughter or mayhem;*

8 (ii) *Any other felony involving the use of a firearm or other deadly weapon;*

9 (iii) *Assault with intent to kill or to commit sexual assault or mayhem;*

10 (iv) *Sexual assault, statutory sexual seduction, incest, lewdness, indecent*
11 *exposure or any other sexually related crime;*

12 (v) *Abuse or neglect of a child or contributory delinquency;*

13 (vi) *A violation of any federal or state law regulating the possession,*
14 *distribution or use of any controlled substance or any dangerous drug as defined*
15 *in chapter 454 of NRS;*

16 (vii) *Abuse, neglect, exploitation or isolation of older persons or vulnerable*
17 *persons, including, without limitation, a violation of any provision of NRS*
18 *200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits*
19 *the same or similar conduct; or*

20 (viii) *Any offense involving fraud, theft, embezzlement, burglary, robbery,*
21 *fraudulent conversion or misappropriation of property within the immediately*
22 *preceding 7 years.*

23 2. *An employee must submit to the Division two complete sets of*
24 *fingerprints and written authorization to forward those fingerprints to the Central*
25 *Repository for Nevada Records of Criminal History for submission to the Federal*
26 *Bureau of Investigation for its report.*

27 3. *The Division may exchange with the Central Repository or the Federal*
28 *Bureau of Investigation any information concerning the fingerprints submitted.*

29 4. *The Division may charge an employee investigated pursuant to this*
30 *section for the reasonable cost of that investigation.*

31 5. *An employee who is required to submit to an investigation required*
32 *pursuant to this section shall not have contact with a child in a division facility*
33 *without supervision before the investigation of the background and personal*
34 *history of the employee has been conducted.*

35 6. *The division facility shall conduct an investigation of each employee*
36 *pursuant to this section at least once every 5 years after the initial investigation.*

37 **Sec. 18. 1.** *Upon receiving information from the Central Repository for*
38 *Nevada Records of Criminal History pursuant to section 17 of this act or*
39 *evidence from any other source that an employee of a division facility that*
40 *provides residential treatment for children has been convicted of a crime listed in*
41 *section 17 of this act, the administrative officer shall terminate the employment of*
42 *the employee after allowing the employee time to correct the information as*
43 *required pursuant to subsection 2.*

44 2. *If an employee believes that the information provided to the division*
45 *facility pursuant to subsection 1 is incorrect, the employee must inform the*
46 *division facility immediately. A division facility that is so informed shall give the*
47 *employee 30 days to correct the information.*

48 3. *During the period in which an employee seeks to correct information*
49 *pursuant to subsection 2, it is within the discretion of the administrative officer*
50 *whether to allow the employee to continue to work for the division facility, except*
51 *that the employee shall not have contact with a child in the division facility*
52 *without supervision during such period.*

1 **Sec. 19. 1. The Division shall maintain accurate records of the**
2 **information concerning an employee of a division facility collected pursuant to**
3 **sections 17 and 18 of this act for the period of the employee's employment with a**
4 **division facility, including, without limitation:**

5 **(a) A copy of the fingerprints that were submitted to the Central Repository**
6 **for Nevada Records of Criminal History and a copy of the written authorization**
7 **that was provided by the employee;**

8 **(b) Proof that the fingerprints of the employee were submitted to the Central**
9 **Repository for submission to the Federal Bureau of Investigation for its report;**
10 **and**

11 **(c) Any other documentation of the information collected pursuant to**
12 **sections 17 and 18 of this act.**

13 **2. The records maintained pursuant to subsection 1 must be maintained for**
14 **the period of the employee's employment with the division facility.**

15 **Sec. 20.** NRS 449.173 is hereby amended to read as follows:

16 449.173 ~~[The]~~

17 **1. Except as otherwise provided in subsection 2, the** provisions of NRS
18 449.176 to 449.188, inclusive, do not apply to any facility for the treatment of
19 abuse of alcohol or drugs.

20 **2. A facility for the treatment of abuse of alcohol or drugs must comply with**
21 **the requirements of NRS 449.176 to 449.188, inclusive, if the facility for the**
22 **treatment of abuse of alcohol or drugs provides residential services to children.**

23 **Sec. 21.** NRS 449.176 is hereby amended to read as follows:

24 449.176 1. Each applicant for a license to operate a facility for intermediate
25 care, facility for skilled nursing, residential facility for groups, agency to provide
26 personal care services in the home or home for individual residential care **or, if**
27 **residential services are provided to children, a medical facility or facility for the**
28 **treatment of abuse of alcohol or drugs** shall submit to the Central Repository for
29 Nevada Records of Criminal History two complete sets of fingerprints for
30 submission to the Federal Bureau of Investigation for its report.

31 2. The Central Repository for Nevada Records of Criminal History shall
32 determine whether the applicant has been convicted of a crime listed in paragraph
33 (a) of subsection 1 of NRS 449.188 and immediately inform the administrator of
34 the facility, agency or home, if any, and the Health Division of whether the
35 applicant has been convicted of such a crime.

36 **3. A person who holds a license to operate an agency, a facility or a home**
37 **which provides residential services to children shall submit to the Central**
38 **Repository for Nevada Records of Criminal History two complete sets of**
39 **fingerprints for a report required by this section at least once every 5 years after**
40 **the initial investigation.**

41 **Sec. 22.** NRS 449.179 is hereby amended to read as follows:

42 449.179 1. Except as otherwise provided in subsection 2, within 10 days
43 after hiring an employee or entering into a contract with an independent contractor,
44 the administrator of, or the person licensed to operate, an agency to provide
45 personal care services in the home, an agency to provide nursing in the home, a
46 facility for intermediate care, a facility for skilled nursing, a residential facility for
47 groups or a home for individual residential care **or, if residential services are**
48 **provided to children, a medical facility or a facility for the treatment of abuse of**
49 **alcohol or drugs** shall:

50 (a) Obtain a written statement from the employee or independent contractor
51 stating whether he or she has been convicted of any crime listed in NRS 449.188;

52 (b) Obtain an oral and written confirmation of the information contained in the
53 written statement obtained pursuant to paragraph (a);

(c) Obtain from the employee or independent contractor two sets of fingerprints and a written authorization to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(d) Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (c) ~~to obtain information on the background and personal history of each employee or independent contractor to determine whether the person has been convicted of any crime listed in NRS 449.188.~~

2. The administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing, a residential facility for groups or a home for individual residential care *or, if residential services are provided to children, a medical facility or a facility for the treatment of abuse of alcohol or drugs* is not required to obtain the information described in subsection 1 from an employee or independent contractor who provides proof that an investigation of his or her ~~criminal~~ *background and personal* history has been conducted by the Central Repository for Nevada Records of Criminal History within the immediately preceding 6 months and the investigation did not indicate that the employee or independent contractor had been convicted of any crime set forth in NRS 449.188.

3. The administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing, a residential facility for groups or a home for individual residential care *or, if residential services are provided to children, a medical facility or a facility for the treatment of abuse of alcohol or drugs* shall ensure that the ~~criminal~~ *information concerning the background and personal* history of each employee or independent contractor who works at the agency or facility ~~is investigated at~~ :

(a) Is completed as soon as practicable, and if residential services are provided to children, before the employee or independent contractor provides any care or services to a child in the agency, facility or home without supervision; and

(b) At least once every 5 years thereafter.

4. The administrator or person shall:

(a) If the agency, facility or home does not have the fingerprints of the employee or independent contractor on file, obtain two sets of fingerprints from the employee or independent contractor;

(b) Obtain written authorization from the employee or independent contractor to forward the fingerprints on file or obtained pursuant to paragraph (a) to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(c) Submit the fingerprints to the Central Repository for Nevada Records of Criminal History.

~~4.~~ 5. Upon receiving fingerprints submitted pursuant to this section, the Central Repository for Nevada Records of Criminal History shall determine whether the employee or independent contractor has been convicted of a crime listed in NRS 449.188 and immediately inform the Health Division and the administrator of, or the person licensed to operate, the agency, facility or home at which the person works whether the employee or independent contractor has been convicted of such a crime.

~~5.~~ 6. The Central Repository for Nevada Records of Criminal History may impose a fee upon an agency, a facility or a home that submits fingerprints pursuant

to this section for the reasonable cost of the investigation. The agency, facility or home may recover from the employee or independent contractor not more than one-half of the fee imposed by the Central Repository. If the agency, facility or home requires the employee or independent contractor to pay for any part of the fee imposed by the Central Repository, it shall allow the employee or independent contractor to pay the amount through periodic payments.

Sec. 23. NRS 449.182 is hereby amended to read as follows:

449.182 **1.** Each agency to provide personal care services in the home, agency to provide nursing in the home, facility for intermediate care, facility for skilled nursing, residential facility for groups and home for individual residential care *and, if residential services are provided to children, a medical facility and facility for the treatment of abuse of alcohol or drugs* shall maintain ~~{accurate}~~ records of the information concerning its employees and independent contractors collected pursuant to NRS 449.179 ~~{and shall maintain a}~~, *including, without limitation:*

(a) A copy of the fingerprints *that were* submitted to the Central Repository for Nevada Records of Criminal History ~~{and proof}~~ *and a copy of the written authorization that was provided by the employee;*

(b) Proof that ~~{it submitted two sets of}~~ *the fingerprints of the employee were submitted* to the Central Repository ~~{for its report. These}~~; and

(c) *Any other documentation of the information collected pursuant to NRS 449.179.*

2. The records *maintained pursuant to subsection 1* must be ~~{made}~~:

(a) *Maintained for the period of the employee's employment with the agency, facility or home; and*

(b) *Made* available for inspection by the Health Division at any reasonable time, and copies thereof must be furnished to the Health Division upon request.

Sec. 24. NRS 449.185 is hereby amended to read as follows:

449.185 **1.** Upon receiving information from the Central Repository for Nevada Records of Criminal History pursuant to NRS 449.179, or evidence from any other source, that an employee or independent contractor of an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing, a residential facility for groups or home for individual residential care *or, if residential services are provided to children, a medical facility or facility for the treatment of abuse of alcohol or drugs* has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188, the administrator of, or the person licensed to operate, the agency, facility or home shall terminate the employment or contract of that person after allowing him or her time to correct the information as required pursuant to subsection 2.

2. If an employee or independent contractor believes that the information provided by the Central Repository is incorrect, the employee or independent contractor may immediately inform the agency, facility or home. An agency, facility or home that is so informed shall give the employee or independent contractor a reasonable amount of time of not less than 30 days to correct the information received from the Central Repository before terminating the employment or contract of the person pursuant to subsection 1.

3. An agency, facility or home that has complied with NRS 449.179 may not be held civilly or criminally liable based solely upon the ground that the agency, facility or home allowed an employee or independent contractor to work:

(a) Before it received the information concerning the employee or independent contractor from the Central Repository ~~{}~~, *except that an employee or*

1 *independent contractor shall not have contact with a child without supervision*
2 *before such information is received;*

3 (b) During ~~any~~ the period required pursuant to subsection 2 to allow the
4 employee or independent contractor to correct that information ~~it~~, *except that an*
5 *employee or independent contractor shall not have contact with a child without*
6 *supervision during such period;*

7 (c) Based on the information received from the Central Repository, if the
8 information received from the Central Repository was inaccurate; or

9 (d) Any combination thereof.

10 ➤ An agency, facility or home may be held liable for any other conduct determined
11 to be negligent or unlawful.

12 **Sec. 25.** A person who is required to submit to an investigation of his or her
13 background and personal history pursuant to NRS 424.031, as amended by section
14 4 of this act, NRS 432A.170, as amended by section 8 of this act, NRS 449.176, as
15 amended by section 21 of this act or NRS 449.179, as amended by section 22 of
16 this act or section 12 or 17 of this act shall submit the documentation and
17 fingerprints required to conduct such an investigation in accordance with the
18 amendatory provisions of this act on or before October 1, 2011, and may have
19 contact with a child without supervision pending the results of the investigation.

20 **Sec. 26.** This act becomes effective upon passage and approval for the
21 purpose of conducting investigations pursuant to section 25 of this act and on
22 October 1, 2011, for all other purposes.