

SENATE BILL NO. 62—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE OFFICE OF ECONOMIC DEVELOPMENT)

PREFILED DECEMBER 20, 2012

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the process for an employer to request records of criminal history concerning a prospective employee or volunteer. (BDR 14-295)

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 criminal records; revising provisions relating to the distribution to a current or prospective employer of certain information from the Central Repository for Nevada Records of Criminal History; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing state law, an agency of criminal justice or the Central
2 Repository for Nevada Records of Criminal History is required to disseminate to a
3 current or prospective employer, upon request, certain information about the
4 criminal history of a current or prospective employee or volunteer. (NRS
5 179A.100) Under existing federal law, a “consumer report” is defined to include
6 any communication of any information by a consumer reporting agency that bears
7 upon an individual’s character. (15 U.S.C. § 1681a(d)(1)) This bill creates a legal
8 fiction allowing a person or entity designated to receive information about the
9 criminal history of a current or prospective employee or volunteer on behalf of an
10 employer to obtain such a criminal history by submitting to the Central Repository
11 proof of the consent of an employee or volunteer to allow the employer to obtain a
12 consumer report pursuant to 15 U.S.C. § 1681b(b)(2) in lieu of submitting a written
13 consent of an employee or volunteer to obtain a criminal history from the Central
14 Repository.



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

Section 1. NRS 179A.100 is hereby amended to read as follows:

179A.100 1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and

(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the Central Repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer which are the result of a name-based inquiry and which:

(a) Reflect convictions only; or

(b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.

4. In addition to any other information to which an employer is entitled or authorized to receive from a name-based inquiry, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information contained in a record of registration concerning an employee, prospective employee, volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, regardless of whether the employee, prospective employee, volunteer or prospective volunteer gives written consent to the release of that information. The Central Repository shall disseminate such information in a manner that does not reveal the name of an individual victim of an offense or the information described in subsection 7 of NRS 179B.250. A request for information pursuant to this subsection must conform to the requirements of the Central Repository and must include:



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1 (a) The name and address of the employer, and the name and
2 signature of the person or entity requesting the information on
3 behalf of the employer;

4 (b) The name and address of the employer's facility in which the
5 employee, prospective employee, volunteer or prospective volunteer
6 is employed or volunteers or is seeking to become employed or
7 volunteer; and

8 (c) The name and other identifying information of the employee,
9 prospective employee, volunteer or prospective volunteer.

10 5. In addition to any other information to which an employer is
11 entitled or authorized to receive, the Central Repository shall
12 disseminate to a prospective or current employer, or a person or
13 entity designated to receive the information on behalf of such an
14 employer, the information described in subsection 4 of NRS
15 179A.190 concerning an employee, prospective employee, volunteer
16 or prospective volunteer who gives ~~written~~ consent to the release
17 of that information :

18 (a) *In writing to the employer*, if the employer submits a request
19 in the manner set forth in NRS 179A.200 for obtaining a notice of
20 information ~~H~~ ; or

21 (b) *Pursuant to 15 U.S.C. § 1681b(b)(2) to the person or entity*
22 *designated to receive the information on behalf of the employer, if*
23 *the person or entity so designated submits to the Central*
24 *Repository proof of the consent given by the employee, prospective*
25 *employee, volunteer or prospective volunteer pursuant to 15*
26 *U.S.C. § 1681b(b)(2).*

27 ➡ The Central Repository shall search for and disseminate such
28 information in the manner set forth in NRS 179A.210 for the
29 dissemination of a notice of information.

30 6. Except as otherwise provided in subsection 5, the provisions
31 of NRS 179A.180 to 179A.240, inclusive, do not apply to an
32 employer who requests information and to whom such information
33 is disseminated pursuant to subsections 4 and 5.

34 7. Records of criminal history must be disseminated by an
35 agency of criminal justice, upon request, to the following persons or
36 governmental entities:

37 (a) The person who is the subject of the record of criminal
38 history for the purposes of NRS 179A.150.

39 (b) The person who is the subject of the record of criminal
40 history when the subject is a party in a judicial, administrative,
41 licensing, disciplinary or other proceeding to which the information
42 is relevant.

43 (c) The State Gaming Control Board.

44 (d) The State Board of Nursing.



1 (e) The Private Investigator's Licensing Board to investigate an
2 applicant for a license.

3 (f) A public administrator to carry out the duties as prescribed in
4 chapter 253 of NRS.

5 (g) A public guardian to investigate a ward or proposed ward or
6 persons who may have knowledge of assets belonging to a ward or
7 proposed ward.

8 (h) Any agency of criminal justice of the United States or of
9 another state or the District of Columbia.

10 (i) Any public utility subject to the jurisdiction of the Public
11 Utilities Commission of Nevada when the information is necessary
12 to conduct a security investigation of an employee or prospective
13 employee or to protect the public health, safety or welfare.

14 (j) Persons and agencies authorized by statute, ordinance,
15 executive order, court rule, court decision or court order as
16 construed by appropriate state or local officers or agencies.

17 (k) Any person or governmental entity which has entered into a
18 contract to provide services to an agency of criminal justice relating
19 to the administration of criminal justice, if authorized by the
20 contract, and if the contract also specifies that the information will
21 be used only for stated purposes and that it will be otherwise
22 confidential in accordance with state and federal law and regulation.

23 (l) Any reporter for the electronic or printed media in a
24 professional capacity for communication to the public.

25 (m) Prospective employers if the person who is the subject of
26 the information has given written consent to the release of that
27 information by the agency which maintains it.

28 (n) For the express purpose of research, evaluative or statistical
29 programs pursuant to an agreement with an agency of criminal
30 justice.

31 (o) An agency which provides child welfare services, as defined
32 in NRS 432B.030.

33 (p) The Division of Welfare and Supportive Services of the
34 Department of Health and Human Services or its designated
35 representative, as needed to ensure the safety of investigators and
36 caseworkers.

37 (q) The Aging and Disability Services Division of the
38 Department of Health and Human Services or its designated
39 representative, as needed to ensure the safety of investigators and
40 caseworkers.

41 (r) An agency of this or any other state or the Federal
42 Government that is conducting activities pursuant to Part D of
43 Subchapter IV of Chapter 7 of Title 42 of the Social Security Act,
44 42 U.S.C. §§ 651 et seq.



(s) The State Disaster Identification Team of the Division of
Emergency Management of the Department.

(t) The Commissioner of Insurance.

(u) The Board of Medical Examiners.

(v) The State Board of Osteopathic Medicine.

(w) The Board of Massage Therapists and its Executive
Director.

8. Agencies of criminal justice in this State which receive
information from sources outside this State concerning transactions
involving criminal justice which occur outside Nevada shall treat the
information as confidentially as is required by the provisions of this
chapter.

Sec. 2. NRS 179A.200 is hereby amended to read as follows:

179A.200 1. In addition to any other information which an
employer is authorized to request pursuant to this chapter, an
employer may request from the Central Repository notice of
information relating to the offenses listed in subsection 4 of NRS
179A.190 concerning an employee.

2. A request for notice of information relating to the offenses
listed in subsection 4 of NRS 179A.190 from an employer must
conform to the requirements of the Central Repository. The request
must include:

(a) The name and address of the employer, and the name and
signature of the person requesting the notice on behalf of the
employer;

(b) The name and address of the employer's facility in which the
employee is employed or seeking to become employed;

(c) The name, a complete set of fingerprints and other
identifying information of the employee;

(d) Signed consent by the employee authorizing:

(1) The employer to forward the fingerprints of the employee
to the Central Repository for submission to the Federal Bureau of
Investigation for its report;

(2) A search of information relating to the offenses listed in
subsection 4 of NRS 179A.190 concerning the employee; and

(3) The release of a notice concerning that information;

(e) The mailing address of the employee or a signed waiver of
the right of the employee to be sent a copy of the information
disseminated to the employer as a result of the search of the records
of criminal history; and

(f) The signature of the employee indicating that the employee
has been notified of:

(1) The types of information for which notice is subject to
dissemination pursuant to NRS 179A.210, or a description of the
information;



1 (2) The employer's right to require a check of the records of
2 criminal history as a condition of employment; and

3 (3) The employee's right, pursuant to NRS 179A.150, to
4 challenge the accuracy or sufficiency of any information
5 disseminated to the employer.

6 *3. For the purposes of paragraph (b) of subsection 5 of NRS*
7 *179A.100, a request shall be deemed to include the information*
8 *required by paragraphs (d), (e) and (f) of subsection 2 if the*
9 *request includes proof that the employee consented pursuant to 15*
10 *U.S.C. § 1681b(b)(2) to the procurement of a consumer report*
11 *regarding himself or herself for employment purposes.*

12 **Sec. 3.** This act becomes effective upon passage and approval.

