

SENATE BILL NO. 91—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR
CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

FEBRUARY 6, 2013

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing criminal background investigations of employees and independent contractors of certain agencies, facilities and homes that provide medical or other care to persons. (BDR 40-118)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to background investigations; revising provisions relating to criminal background investigations of certain employees and independent contractors of certain agencies, facilities and homes that provide medical or other care to persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires, with limited exceptions, the administrator of, or the
2 person licensed to operate, certain agencies, facilities or homes that provide
3 medical or other care to persons (an agency to provide personal care services in the
4 home, an agency to provide nursing in the home, a facility for intermediate care, a
5 facility for skilled nursing, a residential facility for groups or a home for individual
6 residential care or, if residential care services are provided to children, a medical
7 facility or a facility for the treatment of abuse of alcohol or drugs) to obtain certain
8 information concerning the background and personal history of each of its
9 employees and independent contractors, unless an investigation of the person was
10 conducted within the immediately preceding 6 months. (NRS 449.123) This bill
11 extends the exemption from obtaining such information if the employee or
12 independent contractor provides proof that: (1) within the immediately preceding 5
13 years an employment agency or an agency, board or commission that regulates an
14 occupation or profession has submitted the fingerprints of the employee or



* S B 9 1 *

15 independent contractor to the Central Repository for Nevada Records of Criminal
16 History for submission to the Federal Bureau of Investigation for its report; and (2)
17 the report indicated that the employee or independent contractor has not been
18 convicted of certain crimes.

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

1 **Section 1.** NRS 449.123 is hereby amended to read as follows:

2 449.123 1. Except as otherwise provided in subsection 2,
3 within 10 days after hiring an employee or entering into a contract
4 with an independent contractor, the administrator of, or the person
5 licensed to operate, an agency to provide personal care services in
6 the home, an agency to provide nursing in the home, a facility for
7 intermediate care, a facility for skilled nursing, a residential facility
8 for groups or a home for individual residential care or, if residential
9 services are provided to children, a medical facility or a facility for
10 the treatment of abuse of alcohol or drugs shall:

11 (a) Obtain a written statement from the employee or independent
12 contractor stating whether he or she has been convicted of any crime
13 listed in NRS 449.174;

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

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

22 (d) Submit to the Central Repository for Nevada Records of
23 Criminal History the fingerprints obtained pursuant to paragraph (c)
24 to obtain information on the background and personal history of
25 each employee or independent contractor to determine whether the
26 person has been convicted of any crime listed in NRS 449.174.

27 2. The administrator of, or the person licensed to operate, an
28 agency to provide personal care services in the home, an agency to
29 provide nursing in the home, a facility for intermediate care, a
30 facility for skilled nursing, a residential facility for groups or a home
31 for individual residential care or, if residential services are provided
32 to children, a medical facility or a facility for the treatment of abuse
33 of alcohol or drugs is not required to obtain the information
34 described in subsection 1 from an employee or independent
35 contractor who provides proof that ~~an investigation of his or her~~
36 ~~background and personal history has been conducted by~~ :



1 (a) *His or her fingerprints have been submitted to* the Central
2 Repository for Nevada Records of Criminal History ~~within~~ *for*
3 *submission to the Federal Bureau of Investigation for its report:*

4 (1) *Within the immediately preceding 5 years by an agency,*
5 *board or commission that regulates an occupation or profession*
6 *pursuant to title 54 of NRS or an employment agency that referred*
7 *the employee or independent contractor to the agency, facility or*
8 *home; or*

9 (2) *Within* the immediately preceding 6 months ~~and the~~
10 ~~investigation did not indicate~~ *by any other person; and*

11 (b) *The report of the Federal Bureau of Investigation*
12 *indicated* that the employee or independent contractor ~~had~~ *has not*
13 been convicted of any crime set forth in NRS 449.174.

14 3. The administrator of, or the person licensed to operate, an
15 agency to provide personal care services in the home, an agency to
16 provide nursing in the home, a facility for intermediate care, a
17 facility for skilled nursing, a residential facility for groups or a home
18 for individual residential care or, if residential services are provided
19 to children, a medical facility or a facility for the treatment of abuse
20 of alcohol or drugs shall ensure that the ~~information~~ *investigation*
21 concerning the background and personal history of each employee
22 or independent contractor who works at the agency, ~~for~~ facility ~~:~~
23 ~~—(a) Is~~ *or home is* completed :

24 (a) *Except as otherwise provided in subsection 2,* as soon as
25 practicable, and if residential services are provided to children,
26 before the employee or independent contractor provides any care or
27 services to a child in the agency, facility or home without
28 supervision; and

29 (b) At least once every 5 years ~~thereafter~~ *after the date of the*
30 *initial investigation.*

31 4. The administrator or person shall ~~if~~ *when required:*

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

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

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

42 5. Upon receiving fingerprints submitted pursuant to this
43 section, the Central Repository for Nevada Records of Criminal
44 History shall determine whether the employee or independent
45 contractor has been convicted of a crime listed in NRS 449.174 and



1 immediately inform the Health Division and the administrator of, or
2 the person licensed to operate, the agency, facility or home at which
3 the person works whether the employee or independent contractor
4 has been convicted of such a crime.

5 6. The Central Repository for Nevada Records of Criminal
6 History may impose a fee upon an agency, a facility or a home that
7 submits fingerprints pursuant to this section for the reasonable cost
8 of the investigation. The agency, facility or home may recover from
9 the employee or independent contractor not more than one-half of
10 the fee imposed by the Central Repository. If the agency, facility or
11 home requires the employee or independent contractor to pay for
12 any part of the fee imposed by the Central Repository, it shall allow
13 the employee or independent contractor to pay the amount through
14 periodic payments.

15 7. *As used in this section, “employment agency” has the*
16 *meaning ascribed to it in NRS 611.020.*

17 **Sec. 2.** This act becomes effective on July 1, 2013.

