

ASSEMBLY BILL NO. 268—COMMITTEE ON
HEALTH AND HUMAN SERVICES

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

MARCH 12, 2015

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to foster care.
(BDR 38-193)

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 foster care; authorizing a licensing authority to conduct a background check on a person who routinely supervises a child in a foster home; requiring an applicant or person licensed to conduct a foster home to prevent such a person from being present in the foster home if the background check reports certain prior criminal convictions of the person; allowing a person who routinely supervises a child in a foster home for whom an investigation is conducted an opportunity to correct such information; requiring each applicant for a license to conduct a foster home and each person licensed to conduct a foster home to maintain records of certain information concerning certain persons who routinely supervise a child in a foster home; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law requires a person to be licensed to conduct a foster home. (NRS
- 2 424.030) Existing law requires the licensing authority that licenses foster homes to
- 3 obtain certain information on the background and personal history of each applicant
- 4 for a license, person who is licensed to conduct a foster home, employee of that
- 5 applicant or licensee and certain residents of a foster home who are 18 years of age
- 6 or older. (NRS 424.031) **Section 1** of this bill authorizes the licensing authority or a



person designated by the licensing authority to obtain such information on a person who is 18 years of age or older who routinely supervises a child in a foster home.

Existing law requires each applicant for a license to conduct a foster home, person who is licensed to conduct a foster home, employee of that applicant or licensee and certain residents of a foster home who are 18 years of age or older to submit a complete set of fingerprints and certain documentation to the licensing authority that licenses foster homes. If the licensing authority determines that the applicant or licensee has committed a certain crime, the licensing authority may deny, suspend or revoke the license. If the licensing authority determines that an employee or certain resident who is 18 years of age or older has committed a certain crime, the licensee is required to terminate the employment of that person, and may be subject to discipline for failing to do so. (NRS 424.033) **Section 2** of this bill requires a person who is 18 years of age or older who routinely supervises a child in a foster home for whom an investigation is conducted pursuant to **section 1** to submit to the same background investigation by the licensing authority that licenses foster homes. In addition, if the licensing authority that licenses foster homes determines that the person has been convicted of a certain offense, the applicant or licensee is required to ensure that the person is not present in the home and may be subject to discipline for failing to do so.

Existing law requires an applicant or licensee to terminate the employment of an employee or remove a resident from the foster home upon receiving certain information regarding prior criminal convictions of the employee or resident. Existing law also provides such an employee or resident an opportunity to correct such information before being terminated. (NRS 424.0335) **Section 3** of this bill requires a licensee to prevent any person who is 18 years of age or older who routinely supervises a child in a foster home for whom an investigation is conducted pursuant to **section 1** from continuing to supervise a child in the foster home upon receiving such information about the person and allows the person to correct such information. Existing law requires each applicant for a license to conduct a foster home to maintain records concerning the personal backgrounds and certain criminal convictions of its employees and certain residents. (NRS 424.034) **Section 4** of this bill requires such applicants and licensees to maintain such records concerning certain persons who are 18 years of age or older who routinely supervise a child in the foster home.

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

Section 1. NRS 424.031 is hereby amended to read as follows:
424.031 1. The licensing authority or a person or entity designated by the licensing authority shall obtain from appropriate law enforcement agencies information on the background and personal history of each applicant for a license to conduct a foster home, person who is licensed to conduct a foster home, employee of that applicant or licensee, and resident of a foster home who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, to determine whether the person investigated has been arrested for, has charges pending for or has been convicted of:

(a) Murder, voluntary manslaughter or mayhem;



(b) Any other felony involving the use or threatened use of force or violence against the victim or 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 or a felony relating to prostitution;

(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;

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

(i) Any offense relating to pornography involving minors, including, without limitation, a violation of any provision of NRS 200.700 to 200.760, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;

(j) Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punishable as a misdemeanor, within the immediately preceding 7 years;

(k) A crime involving domestic violence that is punishable as a felony;

(l) A crime involving domestic violence that is punishable as a misdemeanor, within the immediately preceding 7 years;

(m) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;

(n) Any offense involving the sale, furnishing, purchase, consumption or possession of alcoholic beverages by a minor including, without limitation, a violation of any provision of NRS 202.015 to 202.067, inclusive, or driving a vehicle under the influence of alcohol or a controlled substance in violation of chapter 484C of NRS or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years; or

(o) An attempt or conspiracy to commit any of the offenses listed in this subsection within the immediately preceding 7 years.

2. *A licensing authority or a person or entity designated by the licensing authority may conduct an investigation of the background and personal history of a person who is 18 years of*



age or older who routinely supervises a child in a foster home in the same manner as described in subsection 1.

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

~~[3.]~~ 4. Unless a preliminary Federal Bureau of Investigation Interstate Identification Index name-based check of the records of criminal history has been conducted pursuant to NRS 424.039, a person who is required to submit to an investigation pursuant to ~~[this section]~~ *subsection 1* shall not have contact with a child in a foster home without supervision before the investigation of the background and personal history of the person has been conducted.

~~[4.]~~ 5. The licensing authority or its designee ~~[shall]~~ :

(a) *Shall* conduct an investigation of each licensee, employee and resident pursuant to this section at least once every 5 years after the initial investigation ~~[]~~ ; and

(b) *May conduct an investigation of any person who is 18 years of age or older who routinely supervises a child in a foster home not more than once every 5 years after the initial investigation.*

Sec. 2. NRS 424.033 is hereby amended to read as follows:

424.033 1. Each applicant for a license to conduct a foster home, person who is licensed to conduct a foster home, employee of that applicant or licensee, ~~[or]~~ resident of a foster home who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, *or person who is 18 years of age or older who routinely supervises a child in a foster home for whom an investigation is conducted pursuant to paragraph (b) of subsection 1 of NRS 424.031*, must submit to the licensing authority or its approved designee:

(a) A complete set of fingerprints and written permission authorizing the licensing authority or its approved designee 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 to enable the licensing authority or its approved designee to conduct an investigation pursuant to NRS 424.031; and

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

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



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

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

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

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

7. The licensing authority shall immediately inform the applicant for a license to conduct a foster home or the person who is licensed to conduct a foster home whether an employee or resident of the foster home , *or any other person who is 18 years of age or older who routinely supervises a child in the foster home for whom an investigation was conducted pursuant to paragraph (b) of subsection 1 of NRS 424.031*, has been convicted of a crime listed in NRS 424.031.

8. The licensing authority may deny an application for a license to operate a foster home or may suspend or revoke such a license if the licensing authority determines that the applicant or licensee has been convicted of a crime listed in NRS 424.031 or has failed to terminate an employee , ~~for~~ remove a resident of the foster home who is 18 years of age or older ~~and~~ *or prevent a person for whom an investigation was conducted pursuant to paragraph (b) of subsection 1 of NRS 424.031 from being present in the foster home, if such a person* has been convicted of any crime listed in NRS 424.031.

Sec. 3. NRS 424.0335 is hereby amended to read as follows:

424.0335 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 , ~~for~~ 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 , *or any other person who is 18 years of age or older who routinely supervises a child in a foster home for whom*



1 *an investigation was conducted pursuant to paragraph (b) of*
2 *subsection 1 of NRS 424.031*, has been convicted of a crime listed
3 in NRS 424.031, the applicant or licensee shall terminate the
4 employment of the employee , ~~for~~ remove the resident from the
5 foster home *or prevent the person who is 18 years of age or older*
6 *who routinely supervises a child in the foster home from being*
7 *present in the home* after allowing the employee , ~~for~~ resident *or*
8 *other person* time to correct the information as required pursuant to
9 subsection 2.

10 2. If an employee , ~~for~~ resident *or other person who is 18*
11 *years of age or older who routinely supervises a child in a foster*
12 *home* believes that the information provided pursuant to subsection
13 1 is incorrect, the employee , ~~for~~ resident *or other person* must
14 inform the applicant or licensee immediately. An applicant or
15 licensee that is so informed shall give the employee , ~~for~~ resident *or*
16 *other person* 30 days to correct the information.

17 3. During the period in which an employee , ~~for~~ resident *or*
18 *other person who is 18 years of age or older who routinely*
19 *supervises a child in a foster home* seeks to correct information
20 pursuant to subsection 2, it is within the discretion of the applicant
21 or licensee whether to allow the employee , ~~for~~ resident *or other*
22 *person* to continue to work for , ~~for~~ reside at *or provide*
23 *supervision of a child in* the foster home, as applicable, except that
24 the employee , ~~for~~ resident *or other person* shall not have contact
25 with a child in the foster home without supervision during any such
26 period.

27 **Sec. 4.** NRS 424.034 is hereby amended to read as follows:

28 424.034 1. Each applicant for a license to conduct a foster
29 home and each person licensed to conduct a foster home shall
30 maintain records of the information concerning its employees , ~~and~~
31 any residents of the foster home who are 18 years of age or older
32 *and any other person who is 18 years of age or older who*
33 *routinely supervises a child in a foster home* that is collected
34 pursuant to NRS 424.031, 424.033 and 424.0335, including, without
35 limitation:

36 (a) A copy of the fingerprints that were submitted to the Central
37 Repository for Nevada Records of Criminal History and a copy of
38 the written authorization that was provided by the employee , ~~for~~
39 resident ~~for~~ *or other person*;

40 (b) Proof that the fingerprints of the employee , ~~for~~ resident *or*
41 *other person* were submitted to the Central Repository; and

42 (c) Any other documentation of the information collected
43 pursuant to NRS 424.031, 424.033 and 424.0335.

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



(a) Maintained for the period of the employee's employment with ~~for~~ *the foster home or the* resident's presence at the foster home ~~is~~ *or the period during which a person who is 18 years of age or older for whom an investigation was conducted pursuant to paragraph (b) of subsection 1 of NRS 424.031 continues to routinely supervise a child in the foster home;* and

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

Sec. 5. NRS 179A.075 is hereby amended to read as follows:

179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the General Services Division of the Department.

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

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

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

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues, and any information in its possession relating to the DNA profile of a person from whom a biological specimen is obtained pursuant to NRS 176.09123 or 176.0913, to the Division. The information must be submitted to the Division:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

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

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

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

(1) Records of criminal history; and

(2) The DNA profile of a person from whom a biological specimen is obtained pursuant to NRS 176.09123 or 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.

(d) Upon request, provide, in paper or electronic form, the information that is contained in the Central Repository to a multidisciplinary team to review the death of the victim of a crime that constitutes domestic violence organized or sponsored by the Attorney General pursuant to NRS 228.495.

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 *or authorized* to be obtained pursuant to NRS 62B.270, 62G.223, 62G.353, 424.031, 432A.170, 432B.198, 433B.183, 449.123 and 449.4329; 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 the issuance or renewal of 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 62B.270, 62G.223, 62G.353, 424.031, 432A.170, 432B.198, 433B.183, 449.122, 449.123 or 449.4329.

(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.

Sec. 6. This act becomes effective on July 1, 2015.

