

Assembly Bill No. 417--Committee on Judiciary

CHAPTER.....

AN ACT relating to criminal records; revising provisions governing the dissemination of records of criminal history from the Central Repository for Nevada Records of Criminal History pursuant to name-based searches conducted by a service within the Central Repository; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes within the Central Repository for Nevada Records of Criminal History a service to conduct a name-based search of records of criminal history of an employee, prospective employee, volunteer or prospective volunteer. (NRS 179A.103) Existing law authorizes an employment screening service which has entered into a contract with the Central Repository to inquire about, obtain and provide those records of criminal history to the employer or volunteer organization. (NRS 179A.103) This bill provides that a person who enters into a contract with a person, business or organization for certain services provided by an independent contractor, subcontractor or third party is an employer for the purpose of being eligible to conduct a name-based search of records of criminal history of an employee pursuant to existing law.

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

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

Section 1. NRS 179A.103 is hereby amended to read as follows:

179A.103 1. There is hereby established within the Central Repository a service to conduct a name-based search of records of criminal history of an employee, prospective employee, volunteer or prospective volunteer.

2. An eligible person that wishes to participate in the service must enter into a contract with the Central Repository. *The elements of a contract entered into pursuant to this section must be limited to requiring the eligible person to:*

(a) Pay a fee pursuant to subsection 3, if applicable; and

(b) Comply with applicable law.

3. The Central Repository may charge a reasonable fee for participation in the service.

4. An authorized participant of the service may inquire about the records of criminal history of an employee, prospective employee, volunteer or prospective volunteer to determine the suitability of the employee or prospective employee for employment



or the suitability of the volunteer or prospective volunteer for volunteering.

5. The Central Repository shall disseminate to an authorized participant of the service information which:

(a) Reflects convictions only; or

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

6. An employee, prospective employee, volunteer or prospective volunteer who is proposed to be the subject of a name-based search must provide his or her written consent *directly to the authorized participant or, if the authorized participant is a screening service, directly to the eligible person designating the screening service to receive records of criminal history*, for the Central Repository to perform the search and to release the information to an authorized participant. The written consent form may be:

(a) A form designated by the Central Repository; or

(b) If the authorized participant is ~~[an employment]~~ a screening service, a form that complies with the provisions of 15 U.S.C. § 1681b(b)2 for the procurement of a consumer report.

7. ~~[An employment]~~ A screening service that is designated to receive records of criminal history on behalf of an ~~[employer or volunteer organization]~~ *eligible person* may provide such records of criminal history to the ~~[employer or volunteer organization]~~ *eligible person* upon request of the ~~[employer or volunteer organization,]~~ *eligible person* if the ~~[employment]~~ screening service maintains records of its dissemination of the records of criminal history.

8. The Central Repository may audit an authorized participant, at such times as the Central Repository deems necessary, to ensure that records of criminal history are securely maintained.

9. The Central Repository may terminate participation in the service if an authorized participant fails:

(a) To pay the fees required to participate in the service; or

(b) To address, within a reasonable period, deficiencies identified in an audit conducted pursuant to subsection 8.

10. As used in this section:

(a) "Authorized participant" means an eligible person who has entered into a contract with the Central Repository to participate in the service established pursuant to subsection 1.

(b) "Consumer report" has the meaning ascribed to it in 15 U.S.C. § 1681a(d).

(c) "Eligible person" ~~[includes:]~~ *means:*



- (1) An employer.
 - (2) A volunteer organization.
 - (3) ~~[An employment]~~ A screening service.
- (d) "Employer" means a person that:
- (1) Employs an employee ~~[:]~~ or *makes employment decisions;*
 - (2) Enters into a contract with an independent contractor ~~[:]~~ ~~—(e)] or makes the determination whether to enter into a contract with an independent contractor; or~~
 - (3) *Enters into a contract with a person, business or organization for the provision, directly or indirectly, of labor, services or materials by an independent contractor, subcontractor or a third party.*
- (e) "Employment" includes performing services , *directly or indirectly,* for an employer as an independent contractor ~~[:]~~ ~~—(f) "Employment screening] , subcontractor or a third party pursuant to a contract.~~
- (f) "Screening service" means a person or entity designated , *directly or indirectly,* by an ~~[employer or volunteer organization]~~ *eligible person* to provide employment or volunteer screening services to the ~~[employer or volunteer organization.]~~ *eligible person.*
- (g) "Written consent" means:
- (1) *An electronic signature pursuant to 15 U.S.C. § 7006(5), and any regulations adopted pursuant thereto;*
 - (2) *Completion of the form designated by the Central Repository pursuant to paragraph (a) of subsection 6; or*
 - (3) *Consent by means of mail, the Internet, other electronic means or other means pursuant to 15 U.S.C. § 1681b(b)(2), and any regulations adopted pursuant thereto.*

Sec. 2. This act becomes effective upon passage and approval.

