

EXEMPT

(Reprinted with amendments adopted on June 3, 2019)  
**FOURTH REPRINT** **A.B. 425**

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ASSEMBLY BILL NO. 425—COMMITTEE  
ON GOVERNMENT AFFAIRS

MARCH 25, 2019

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Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing public safety.  
(BDR 14-945)

FISCAL NOTE: Effect on Local Government: Increases or Newly  
Provides for Term of Imprisonment in County or City  
Jail or Detention Facility.  
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.

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AN ACT relating to public safety; requiring the Central Repository for Nevada Records of Criminal History to prepare an annual report relating to the transmission of certain information and records concerning public safety; providing for coordination between the Central Repository and the courts relating to such information and records; enacting provisions relating to the authority of the Central Repository to conduct a background check on certain persons who provide care for children, elderly persons or persons with disabilities; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law requires a court, within 5 business days, to transmit to the Central  
2 Repository for Nevada Records of Criminal History a record concerning the  
3 appointment of a guardian for a person with a mental defect, a plea or finding of  
4 guilty but mentally ill, a verdict acquitting a person by reason of insanity, a finding  
5 that a person is incompetent to stand trial or the involuntary admission of a person  
6 to a mental health facility, along with a statement that the record is being  
7 transmitted for inclusion in all appropriate databases of the National Instant  
8 Criminal Background Check System. (NRS 159.0593, 174.035, 175.533, 175.539,  
9 178.425, 433A.310) Existing law also provides that, upon receiving such a record,  
10 the Central Repository: (1) must take reasonable steps to ensure that the  
11 information reported in the record is included in each appropriate database of the  
12 National Instant Criminal Background Check System; and (2) may take reasonable



steps to ensure that the information reported in the record is included in each appropriate database of the National Crime Information Center. (NRS 179A.163)

Existing law further requires a person to transmit certain information to the Central Repository any time a court issues a temporary or extended order for protection against domestic violence and any time that a person serves such an order, registers such an order, registers a Canadian domestic-violence protection order or receives certain information or takes certain other actions relating to such orders. (NRS 33.095) Finally, existing law requires each agency of criminal justice to submit information to the Central Repository relating to records of criminal history that it creates, issues or collects, and certain information in the agency's possession relating to the DNA profile of certain persons. (NRS 179A.075)

**Section 1.3** of this bill requires the Central Repository to prepare an annual report to be submitted to the Governor, the Nevada Supreme Court and the Director of the Legislative Counsel Bureau for transmittal to the Legislature regarding each instance in which certain information relating to orders for protection against domestic violence, records of criminal history, information relating to DNA profiles and mental health records were not timely submitted during the previous fiscal year. **Section 1.3** also requires the Central Repository to coordinate its efforts with the courts to ensure that such information and records are timely submitted to the Central Repository.

Existing law creates the Central Repository for the Nevada Records of Criminal History within the Records, Communications and Compliance Division of the Department of Public Safety. Existing law authorizes the Records, Communications and Compliance Division to request of and receive from the Federal Bureau of Investigation information on the background and personal history of certain persons whose fingerprints the Central Repository submits to the Federal Bureau of Investigation. (NRS 179A.075)

The National Child Protection Act/Volunteers for Children Act (NCPA/VCA) authorizes states to enact provisions that require qualified entities to contact an authorized agency to request a national background check for the purpose of determining whether a covered individual has been convicted of a crime that bears upon the fitness of the covered individual to care for children, elderly persons or individuals with disabilities. (34 U.S.C. 40102, et seq.) **Section 1.7** of this bill requires the Central Repository to act as the authorized agency of this State for the purpose of conducting such background checks. **Section 1.7** also provides the duties of qualifying entities and the Central Repository, as applicable, and the rights afforded to a covered individual. Finally, **section 1.7**: (1) requires the Director of the Department of Public Safety to adopt certain regulations; and (2) provides that certain persons and entities are not liable for certain acts or omissions relating to such background checks under certain circumstances.

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

**Section 1.** Chapter 179A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.7 of this act.

**Sec. 1.3. 1. *On or before September 1 of each year, the Central Repository shall prepare and submit to the Governor, the Nevada Supreme Court and the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report***



1 identifying each instance in which information or a record is  
2 required to be transmitted to the Central Repository pursuant to  
3 NRS 33.095, 159.0593, 174.035, 175.533, 175.539, 178.425,  
4 subsection 3 of NRS 179A.075 or NRS 433A.310 and such  
5 information or record was not timely submitted during the  
6 previous fiscal year. The report must include the reason, if known,  
7 for the untimely submission of the information or record.

8 2. The Central Repository shall, according to a schedule  
9 established by the Director of the Department, contact the courts  
10 in this State to coordinate efforts to ensure the timely submission  
11 of information or records transmitted pursuant to NRS 33.095,  
12 159.0593, 174.035, 175.533, 175.539, 178.425, subsection 3 of  
13 NRS 179A.075 or NRS 433A.310.

14 Sec. 1.7. 1. The Central Repository shall act as the  
15 authorized agency of this State for any request by a qualifying  
16 agency for a national background check where the purpose of the  
17 national background check is to determine whether a covered  
18 individual has been convicted of a crime that bears upon the  
19 fitness of the covered individual to have responsibility for the  
20 safety and well-being of children, elderly persons or individuals  
21 with disabilities. A qualified entity shall submit a request for any  
22 such background check to the Central Repository.

23 2. Before a qualified entity may submit a request for a  
24 background check pursuant to this section, the qualified entity  
25 must:

26 (a) Register with the Central Repository via a signed written  
27 agreement.

28 (b) Obtain from the covered individual for whom the request  
29 will be submitted:

30 (1) A set of fingerprints;

31 (2) A completed and signed statement that complies with  
32 the requirements of 34 U.S.C. § 40102(b)(1); and

33 (3) A signed waiver authorizing the Central Repository to  
34 release the background check to the qualified entity.

35 3. The Central Repository shall:

36 (a) Access and review state and federal records of criminal  
37 history through the national criminal history background check  
38 system and shall make reasonable efforts to respond to a request  
39 by a qualified entity within 15 days.

40 (b) Determine whether a covered individual has been convicted  
41 of, or is under pending indictment for, a crime that bears upon the  
42 covered individual's fitness to have responsibility for the safety  
43 and well-being of children, the elderly or individuals with  
44 disabilities and shall convey that determination to the qualified  
45 entity.



(c) Upon receipt of a background check lacking disposition data, conduct research in available state and local recordkeeping systems to obtain complete data.

(d) Charge a fee for the background check that complies with the requirements of 34 U.S.C. § 40102(e).

(e) Provide qualified entities with information concerning the required procedures for submitting a request pursuant to this section, including, without limitation, information concerning:

(1) The waiver and statement required pursuant to subsection 2;

(2) The rights of the covered individuals; and

(3) The amount of fees required for each background check.

4. The Director of the Department shall adopt regulations to ensure that the covered individual has the rights described in 34 U.S.C. § 40102(b)(2) and may adopt any other regulations as necessary to comply with the requirements of 34 U.S.C. § 40102.

5. The background check and the results thereof must be handled in accordance with the requirements of the Department of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544) and, as applicable to the use and release of state or federal records, chapter 179A of NRS and 34 U.S.C. § 40102.

6. A qualified entity is not liable in an action for damages solely for failure to conduct a criminal background check on a covered individual pursuant to this section.

7. The State, any political subdivision of the State and any agency, officer or employee of this State or any political subdivision of the State are not liable in an action for damages for the failure of a qualified entity to take action adverse to a covered individual who was the subject of a background check.

8. As used in this section:

(a) "Child" means a person who is less than 18 years of age.

(b) "Covered individual" has the meaning ascribed to it in 34 U.S.C. § 40104(9).

(c) "Elderly person" means a person who is 60 years of age or older.

(d) "Individuals with disabilities" has the meaning ascribed to it in 34 U.S.C. § 40104(7).

(e) "National criminal history background check system" has the meaning ascribed to it in 34 U.S.C. § 40104(8).

(f) "Qualified entity" has the meaning ascribed to it in 34 U.S.C. § 40104(10).

Sec. 2. (Deleted by amendment.)

Sec. 2.3. (Deleted by amendment.)



1     **Sec. 2.5.** (Deleted by amendment.)

2     **Sec. 2.7.** (Deleted by amendment.)

3     **Sec. 3.** (Deleted by amendment.)

4     **Sec. 4.** (Deleted by amendment.)

5     **Sec. 4.5.** (Deleted by amendment.)

6     **Sec. 5.** (Deleted by amendment.)

7     **Sec. 5.5.** (Deleted by amendment.)

8     **Sec. 6.** (Deleted by amendment.)

9     **Sec. 7.** (Deleted by amendment.)

10    **Sec. 8.** (Deleted by amendment.)

11    **Sec. 9.** (Deleted by amendment.)

12    **Sec. 10.** (Deleted by amendment.)

13    **Sec. 11.** (Deleted by amendment.)

14    **Sec. 12.** (Deleted by amendment.)

15    **Sec. 13.** (Deleted by amendment.)

16    **Sec. 14.** (Deleted by amendment.)

17    **Sec. 15.** (Deleted by amendment.)

18    **Sec. 16.** (Deleted by amendment.)

19    **Sec. 17.** (Deleted by amendment.)

20    **Sec. 18.** (Deleted by amendment.)

21    **Sec. 19.** (Deleted by amendment.)

22    **Sec. 20.** (Deleted by amendment.)

23    **Sec. 21.** (Deleted by amendment.)

24    **Sec. 22.** (Deleted by amendment.)

25    **Sec. 23.** (Deleted by amendment.)

26    **Sec. 24.** (Deleted by amendment.)

27    **Sec. 25.** (Deleted by amendment.)

28    **Sec. 26.** (Deleted by amendment.)

29    **Sec. 27.** (Deleted by amendment.)

30    **Sec. 27.5.** The provisions of subsection 1 of NRS 218D.380  
31 do not apply to any provision of this act which adds or revises a  
32 requirement to submit a report to the Legislature.

33    **Sec. 28.** This act becomes effective upon passage and approval  
34 for the purpose of adopting regulations and performing any  
35 preliminary and administrative tasks necessary to carry out the  
36 provisions of this act and on July 1, 2019, for all other purposes.

