
SENATE BILL NO. 265—SENATORS SEEVERS GANSERT, HARDY;
CANCELA, GOICOECHEA, HAMMOND, HANSEN,
KIECKHEFER, OHRENSCHALL, PICKARD AND SETTELMAYER

MARCH 12, 2019

JOINT SPONSORS: ASSEMBLYMEN TITUS, KRAMER; ASSEFA, DALY,
HAFEN, HARDY, LEAVITT, NGUYEN, PETERS, SPRINKLE,
TOLLES AND WATTS

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to certain records of
mental health. (BDR 14-1042)

FISCAL NOTE: Effect on Local Government: No.
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 records of mental health; providing for
coordination between the Central Repository for Nevada
Records of Criminal History and the courts relating to the
transmission of certain records of mental health; requiring
the Central Repository to prepare an annual report relating
to such records; 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



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

15 **Section 2** of this bill requires the Central Repository to coordinate its efforts
16 with the courts to ensure that such mental health records are timely submitted to the
17 Central Repository. **Section 1** of this bill requires the Central Repository to prepare
18 an annual report to be submitted to the Governor and the Director of the Legislative
19 Counsel Bureau for transmittal to the Legislature regarding each instance in which
20 such a mental health record was not timely submitted during the previous fiscal
21 year.

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

1 **Section 1.** Chapter 179A of NRS is hereby amended by
2 adding thereto a new section to read as follows:

3 *On or before September 1 of each year, the Central Repository*
4 *shall prepare and submit to the Governor and the Director of the*
5 *Legislative Counsel Bureau for transmittal to the Legislature a*
6 *report identifying each instance in which a record required to be*
7 *transmitted by a court to the Central Repository pursuant to NRS*
8 *159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310 was not*
9 *timely submitted during the previous fiscal year and providing the*
10 *reason, if known, for the untimely submission of the record.*

11 **Sec. 2.** NRS 179A.163 is hereby amended to read as follows:

12 179A.163 1. Upon receiving a record transmitted pursuant to
13 NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310,
14 the Central Repository:

15 (a) Shall take reasonable steps to ensure that the information
16 reported in the record is included in each appropriate database of the
17 National Instant Criminal Background Check System; and

18 (b) May take reasonable steps to ensure that the information
19 reported in the record is included in each appropriate database of the
20 National Crime Information Center.

21 2. *The Central Repository shall, according to a schedule*
22 *established by the Director, contact the courts in this State to*
23 *coordinate efforts to ensure the timely submission of records*
24 *transmitted pursuant to NRS 159.0593, 174.035, 175.533, 175.539,*
25 *178.425 and 433A.310.*

26 3. Except as otherwise provided in subsection ~~3~~ 4, if the
27 Central Repository receives a record described in subsection 1, the
28 person who is the subject of the record may petition the court for an
29 order declaring that:

30 (a) The basis for the adjudication reported in the record no
31 longer exists;



1 (b) The adjudication reported in the record is deemed not to
2 have occurred for purposes of 18 U.S.C. § 922(d)(4) and (g)(4) and
3 NRS 202.360; and

4 (c) The information reported in the record must be removed
5 from the National Instant Criminal Background Check System and
6 the National Crime Information Center.

7 ~~[3.]~~ 4. To the extent authorized by federal law, if the record
8 concerning the petitioner was transmitted to the Central Repository
9 pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or
10 433A.310, the petitioner may not file a petition pursuant to
11 subsection ~~[2.]~~ 3 until 3 years after the date of the order transmitting
12 the record to the Central Repository.

13 ~~[4.]~~ 5. A petition filed pursuant to subsection ~~[2.]~~ 3 must be:

14 (a) Filed in the court which made the adjudication or finding
15 pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or
16 433A.310; and

17 (b) Served upon the district attorney for the county in which the
18 court described in paragraph (a) is located.

19 ~~[5.]~~ 6. The Nevada Rules of Civil Procedure govern all
20 proceedings concerning a petition filed pursuant to subsection ~~[2.]~~ 3.

21 ~~[6.]~~ 7. The court shall grant the petition and issue the order
22 described in subsection ~~[2.]~~ 3 if the court finds that the petitioner has
23 established that:

24 (a) The basis for the adjudication or finding made pursuant to
25 NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310
26 concerning the petitioner no longer exists;

27 (b) The petitioner's record and reputation indicate that the
28 petitioner is not likely to act in a manner dangerous to public safety;
29 and

30 (c) Granting the relief requested by the petitioner pursuant to
31 subsection ~~[2.]~~ 3 is not contrary to the public interest.

32 ~~[7.]~~ 8. Except as otherwise provided in this subsection, the
33 petitioner must establish the provisions of subsection ~~[6.]~~ 7 by a
34 preponderance of the evidence. If the adjudication or finding
35 concerning the petitioner was made pursuant to NRS 159.0593 or
36 433A.310, the petitioner must establish the provisions of subsection
37 ~~[6.]~~ 7 by clear and convincing evidence.

38 ~~[8.]~~ 9. The court, upon entering an order pursuant to this
39 section, shall cause, on a form prescribed by the Department of
40 Public Safety, a record of the order to be transmitted to the Central
41 Repository.

42 ~~[9.]~~ 10. Within 5 business days after receiving a record
43 of an order transmitted pursuant to subsection ~~[8.]~~ 9, the
44 Central Repository shall take reasonable steps to ensure that
45 information concerning the adjudication or finding made pursuant to



1 NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310 is
2 removed from the National Instant Criminal Background Check
3 System and the National Crime Information Center, if applicable.

4 ~~{10}~~ 11. If the Central Repository fails to remove a record as
5 provided in subsection ~~{9}~~ 10, the petitioner may bring an action to
6 compel the removal of the record. If the petitioner prevails in the
7 action, the court may award the petitioner reasonable attorney's fees
8 and costs incurred in bringing the action.

9 ~~{11}~~ 12. If a petition brought pursuant to subsection ~~{2}~~ 3 is
10 denied, the person who is the subject of the record may petition for a
11 rehearing not sooner than 2 years after the date of the denial of the
12 petition.

13 **Sec. 3.** The provisions of subsection 1 of NRS 218D.380 do
14 not apply to any provision of this act which adds or revises a
15 requirement to submit a report to the Legislature.

16 **Sec. 4.** This act becomes effective on July 1, 2019.

