

Senate Bill No. 21–Committee on Judiciary

CHAPTER.....

AN ACT relating to the protection of children; revising requirements relating to background investigations for certain applicants for employment with, and employees of, certain institutions, agencies and facilities that serve children; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires public or private institutions and agencies to which a juvenile court commits a child to conduct background investigations of employees of such institutions and agencies. (NRS 62B.270) Existing law also requires agencies which provide child welfare services to conduct background investigations of applicants for employment with, and employees of, such agencies. (NRS 432B.198) Existing law additionally requires certain facilities which provide residential mental health treatment to children to conduct background investigations of employees of such facilities. (NRS 433B.183) Such background investigations are conducted for the purpose of determining whether an applicant or employee has been convicted of certain specified crimes and, with respect to agencies which provide child welfare services, whether an applicant or employee has charges pending against him or her for any such crime. (NRS 62B.270, 432B.198, 433B.183) If the results of a background investigation correctly provide that an applicant or employee has been convicted of any such crime, the application for employment or the employment of the person must be denied or terminated, respectively. (NRS 62B.275, 432B.199, 433B.185) Additionally, if the results of a background investigation conducted by an agency which provides child welfare services correctly provide that an applicant or employee has charges pending against him or her for any such crime, the application for employment or the employment of the person may be denied or terminated, respectively. (NRS 432B.199)

Sections 1, 3 and 5 of this bill revise the specified crimes authorizing or requiring, as applicable, the denial of an application for employment or the termination of employment with such an institution, agency or facility. For the purposes of conforming with background investigations conducted by agencies which provide child welfare services, **sections 1 and 5** also provide that, in addition to determining whether an employee has been convicted of certain specified crimes, the purpose of a background investigation conducted by public or private institutions and agencies to which a juvenile court commits a child and certain facilities which provide residential mental health treatment to children is to determine whether an employee has criminal charges pending against him or her for a specified crime. Accordingly, **sections 2 and 6** of this bill provide that if such an employee has criminal charges pending against him or her for a specified crime, his or her employment may be terminated. **Sections 1-6** of this bill specify when the period during which criminal charges are pending against an applicant or employee begins and ends.

Section 4 of this bill authorizes agencies which provide child welfare services to waive the prohibition on hiring an applicant who has been convicted of a specified crime if the institution, agency or facility adopts and applies an objective weighing test pursuant to which certain factors are considered relating to the applicant and the crime committed. **Section 4** requires such an agency to track certain data regarding each applicant to whom the objective weighing test is applied



and review the data at least once every 2 years to determine the efficacy of the test and whether the data indicates the presence of implicit bias. **Section 4** also provides that: (1) the prohibition on hiring an applicant who has been convicted of a specified crime may not be waived through the use of the objective weighing test if the specified crime was sexually-related and the victim was a child who was less than 18 years of age when the crime was committed; and (2) the hiring determination made by such an institution, agency or facility after applying the objective weighing test to an applicant is final.

Existing law requires: (1) an employee of a public or private institution or agency to which a juvenile court commits a child or a facility which provides residential mental health treatment to children to submit two complete sets of his or her fingerprints as part of a background investigation; and (2) an applicant for employment with, or an employee of, an agency which provides child welfare services to submit one complete set of his or her fingerprints as part of a background investigation. (NRS 62B.270, 432B.198, 433B.183) **Sections 1 and 5** require an employee of a public or private institution or agency to which a juvenile court commits a child or a facility which provides residential mental health treatment to children to submit one complete set of his or her fingerprints as part of a background investigation instead of two sets of fingerprints.

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 62B.270 is hereby amended to read as follows:

62B.270 1. A public institution or agency to which a juvenile court commits a child or the licensing authority of a private institution to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall secure from appropriate law enforcement agencies information on the background and personal history of each employee of the institution or agency to determine ~~{whether}~~ :

(a) Whether the employee has been convicted of:

~~{(a)}~~ ***(1) Murder, voluntary manslaughter , involuntary manslaughter*** or mayhem;

~~{(b)}~~ ***(2) Any other felony involving the use or threatened use of force or violence or*** the use of a firearm or other deadly weapon;

~~{(c)}~~ ***(3) Assault with intent to kill or to commit sexual assault*** or mayhem;

~~{(d)}~~ ***(4) Battery which results in substantial bodily harm to the victim;***

(5) Battery that constitutes domestic violence that is punishable as a felony;



(6) Battery that constitutes domestic violence, other than a battery described in subparagraph (5), within the immediately preceding 3 years;

(7) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure , an offense involving pornography and a minor or any other sexually related crime;

~~[(e)]~~ *(8) A crime involving pandering or prostitution, including, without limitation, a violation of any provision of NRS 201.295 to 201.440, inclusive, other than a violation of NRS 201.354 by engaging in prostitution;*

(9) Abuse or neglect of a child ~~for contributory delinquency;~~ ~~[(f)]~~ , including, without limitation, a violation of any provision of NRS 200.508 or 200.5083;

(10) 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)]~~ ;

~~[(g)]~~ *within the immediately preceding 3 years;*

(11) A violation of any federal or state law prohibiting driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance that is punishable as a felony;

(12) A violation of any federal or state law prohibiting driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance, other than a violation described in subparagraph (11), within the immediately preceding 3 years;

(13) Abuse, neglect, exploitation, isolation or abandonment 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; or

~~[(h)]~~ *(14) Any offense involving arson, fraud, theft, embezzlement, burglary, robbery, fraudulent conversion , ~~[(i)]~~ misappropriation of property or perjury within the immediately preceding 7 years ~~[(j)]~~ ; or*

(b) Whether there are criminal charges pending against the employee for a crime listed in paragraph (a).

2. An employee of the public or private institution or agency must submit to the public institution or agency or the licensing authority, as applicable, ~~[(two)]~~ a complete ~~[(sets)]~~ set of fingerprints and written authorization 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.



3. The public institution or agency or the licensing authority, as applicable, may exchange with the Central Repository or the Federal Bureau of Investigation any information concerning the fingerprints submitted.

4. The public institution or agency or the licensing authority, as applicable, may charge an employee investigated pursuant to this section for the reasonable cost of that investigation.

5. When a report from the Federal Bureau of Investigation is received by the Central Repository, the Central Repository shall immediately forward a copy of the report to the public institution or agency or the licensing authority, as applicable, for a determination of whether the employee *has criminal charges pending against him or her for a crime listed in paragraph (a) of subsection 1 or* has been convicted of a crime listed in *paragraph (a) of subsection 1.*

6. A person who is required to submit to an investigation required pursuant to this section shall not have contact with a child without supervision in a public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, before the investigation of the background and personal history of the person has been conducted.

7. The public institution or agency or the licensing authority, as applicable, shall conduct an investigation of each employee of the institution or agency pursuant to this section at least once every 5 years after the initial investigation.

8. For the purposes of this section, the period during which criminal charges are pending against an employee for a crime listed in paragraph (a) of subsection 1 begins when the employee is arrested for such a crime and ends when:

(a) A determination is made as to the guilt or innocence of the employee with regard to such a crime at a trial or by a plea; or

(b) The prosecuting attorney makes a determination to:

(1) Decline charging the employee with a crime listed in paragraph (a) of subsection 1; or

(2) Proceed with charges against the employee for only one or more crimes not listed in paragraph (a) of subsection 1.

Sec. 2. NRS 62B.275 is hereby amended to read as follows:

62B.275 1. Upon receiving information from the Central Repository for Nevada Records of Criminal History pursuant to NRS 62B.270 or evidence from any other source that an employee of a public institution or agency to which a juvenile court commits a child or the licensing authority of a private institution to which



a juvenile court commits a child, including, without limitation, a facility for the detention of children ~~[-has]~~ :

(a) Has criminal charges pending against him or her for a crime listed in paragraph (a) of subsection 1 of NRS 62B.270:

(1) The public institution or agency may terminate the employment of the employee after allowing the employee time to correct the information as required pursuant to subsection 2; or

(2) The licensing authority of the private institution shall inform the private institution of the receipt of the information or evidence, and the institution may terminate the employment of the employee after allowing the employee time to correct the information as required pursuant to subsection 2; or

(b) Has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 62B.270:

~~[(a)]~~ (1) The public institution or agency shall terminate the employment of the employee after allowing the employee time to correct the information as required pursuant to subsection 2; or

~~[(b)]~~ (2) The licensing authority of the private institution shall inform the private institution of the receipt of the information or evidence, and the institution shall terminate the employment of the employee after allowing the employee time to correct the information as required pursuant to subsection 2.

2. If an employee believes that the information provided to the public institution or agency or the licensing authority by the Central Repository pursuant to NRS 62B.270 is incorrect, the employee must inform his or her employing institution or agency immediately. An institution or agency that is so informed shall give the employee a reasonable amount of time of not less than 30 days to correct the information.

3. During the period in which an employee seeks to correct information pursuant to subsection 2, it is within the discretion of the employing institution or agency whether to allow the employee to continue to work for the institution or agency, as applicable, except that the employee shall not have contact with a child in the institution or agency without supervision during such period.

4. For the purposes of this section, the period during which criminal charges are pending against an employee for a crime listed in paragraph (a) of subsection 1 of NRS 62B.270 begins and ends as set forth in subsection 8 of that section.

Sec. 3. NRS 432B.198 is hereby amended to read as follows:

432B.198 1. An agency which provides child welfare services shall secure from appropriate law enforcement agencies information on the background and personal history of each



applicant for employment with the agency, and each employee of the agency, to determine:

(a) Whether the applicant or employee has been convicted of:

(1) Murder, voluntary manslaughter, involuntary manslaughter or mayhem;

(2) Any **other** felony involving the use or threatened use of force or violence or the use of a firearm or other deadly weapon;

(3) Assault with intent to kill or to commit sexual assault or mayhem;

(4) Battery which results in substantial bodily harm to the victim;

(5) Battery that constitutes domestic violence that is punishable as a felony;

(6) Battery that constitutes domestic violence, other than a battery described in subparagraph (5), within the immediately preceding 3 years;

(7) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure, ~~for~~ an offense involving pornography and a minor ~~for~~ **or any other sexually related crime;**

(8) A crime involving pandering or prostitution, including, without limitation, a violation of any provision of NRS 201.295 to 201.440, inclusive ~~for~~, **other than a violation of NRS 201.354 by engaging in prostitution;**

(9) Abuse or neglect of a child, including, without limitation, a violation of any provision of NRS 200.508 or 200.5083 ; ~~for contributory delinquency;~~

(10) 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 ~~for~~ **within the immediately preceding 3 years;**

(11) A violation of any federal or state law prohibiting driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance that is punishable as a felony;

(12) A violation of any federal or state law prohibiting driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance, other than a violation described in subparagraph (11), within the immediately preceding 3 years;

(13) Abuse, neglect, exploitation, isolation or abandonment 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; or

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

(b) Whether there are criminal charges pending against the applicant or employee for a ~~[violation of an offense]~~ **crime** listed in paragraph (a).

2. An agency which provides child welfare services shall request information from:

(a) The Statewide Central Registry concerning an applicant for employment with the agency, or an employee of the agency, to determine whether there has been a substantiated report of child abuse or neglect made against the applicant or employee; and

(b) The central registry of information concerning the abuse or neglect of a child established by any other state in which the applicant or employee resided within the immediately preceding 5 years to ensure satisfactory clearance with that registry.

3. Each applicant for employment with an agency which provides child welfare services, and each employee of an agency which provides child welfare services, must submit to the agency:

(a) A complete set of his or her fingerprints and written authorization 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; and

(b) Written authorization for the agency to obtain any information that may be available from the Statewide Central Registry or the central registry of information concerning the abuse or neglect of a child established by any other state in which the applicant or employee resided within the immediately preceding 5 years.

4. An agency which provides child welfare services may exchange with the Central Repository or the Federal Bureau of Investigation any information concerning the fingerprints submitted pursuant to this section.

5. When a report from the Federal Bureau of Investigation is received by the Central Repository, the Central Repository shall immediately forward a copy of the report to the agency which provides child welfare services for a determination of whether the applicant or employee has criminal charges pending against him or her for a crime listed in paragraph (a) of subsection 1 or has been convicted of a crime listed in paragraph (a) of subsection 1.



6. An agency which provides child welfare services shall conduct an investigation of each employee of the agency pursuant to this section at least once every 5 years after the initial investigation.

7. *For the purposes of this section, the period during which criminal charges are pending against an applicant or employee for a crime listed in paragraph (a) of subsection 1 begins when the applicant or employee is arrested for such a crime and ends when:*

(a) A determination is made as to the guilt or innocence of the applicant or employee with regard to such a crime at a trial or by a plea; or

(b) The prosecuting attorney makes a determination to:

(1) Decline charging the applicant or employee with a crime listed in paragraph (a) of subsection 1; or

(2) Proceed with charges against the applicant or employee for only one or more crimes not listed in paragraph (a) of subsection 1.

8. As used in this section, “Statewide Central Registry” means the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established by NRS 432.100.

Sec. 4. NRS 432B.199 is hereby amended to read as follows:

432B.199 1. If the report from the Federal Bureau of Investigation forwarded to an agency which provides child welfare services pursuant to subsection 5 of NRS 432B.198, the information received by an agency which provides child welfare services pursuant to subsection 2 of NRS 432B.198 or evidence from any other source indicates that an applicant for employment with the agency, or an employee of the agency:

(a) Has *criminal* charges pending against him or her for a crime listed in paragraph (a) of subsection 1 of NRS 432B.198, the agency may deny employment to the applicant or terminate the employment of the employee after allowing the applicant or employee time to correct the information as required pursuant to subsection 2 or 3, whichever is applicable; or

(b) ~~Has~~ *Except as otherwise provided in subsection 6, has* been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 432B.198, has had a substantiated report of child abuse or neglect made against him or her or has not been satisfactorily cleared by a central registry described in paragraph (b) of subsection 2 of NRS 432B.198, the agency shall deny employment to the applicant or terminate the employment of the employee after allowing the applicant or employee time to correct the information as required pursuant to subsection 2 or 3, whichever is applicable.



2. If an applicant for employment or an employee believes that the information in the report from the Federal Bureau of Investigation forwarded to the agency which provides child welfare services pursuant to subsection 5 of NRS 432B.198 is incorrect, the applicant or employee must inform the agency immediately. An agency that provides child welfare services that is so informed shall give the applicant or employee a reasonable amount of time of not less than 30 days to correct the information.

3. If an applicant for employment or an employee believes that the information received by an agency which provides child welfare services pursuant to subsection 2 of NRS 432B.198 is incorrect, the applicant or employee must inform the agency immediately. An agency which provides child welfare services that is so informed shall give the applicant or employee a reasonable amount of time of not less than 60 days to correct the information.

4. During the period in which an applicant or employee seeks to correct information pursuant to subsection 2 or 3, the applicant or employee:

(a) Shall not have contact with a child or a relative or guardian of the child in the course of performing any duties as an employee of the agency which provides child welfare services.

(b) May be placed on leave without pay.

5. The provisions of subsection 4 must not be construed as preventing an agency which provides child welfare services from initiating internal disciplinary procedures against an employee during the period in which an employee seeks to correct information pursuant to subsection 2 or 3.

6. Except as otherwise provided in subsection 7, an agency which provides child welfare services may waive the prohibition on hiring an applicant who has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 432B.198 if the agency adopts and applies an objective weighing test in accordance with this subsection. The objective weighing test must include factors the agency will consider when making a determination as to whether to waive such a prohibition, including, without limitation:

(a) The age, maturity and capacity of the applicant at the time of his or her conviction;

(b) The length of time since the applicant committed the crime;

(c) Any participation by the applicant in rehabilitative services; and

(d) The relevance of the crime to the position for which the applicant has applied.



7. The prohibition on hiring an applicant who has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 432B.198 may not be waived through the use of the objective weighing test if the crime was sexually-related and the victim was a child who was less than 18 years of age when the crime was committed.

8. An agency which provides child welfare services shall, with regard to each applicant to whom the agency applies the objective weighing test pursuant to subsection 6:

(a) Track the age, race and ethnicity of the applicant, the position for which the applicant applied and the hiring determination made by the agency; and

(b) Review such data not less than once every 2 years to determine the efficacy of the objective weighing test and whether the data indicates the presence of any implicit bias.

9. The hiring determination made by an agency which provides child welfare services with regard to an applicant to whom the agency applies the objective weighing test is final.

10. For the purposes of this section, the period during which criminal charges are pending against an applicant or employee for a crime listed in paragraph (a) of subsection 1 of NRS 432B.198 begins and ends as set forth in subsection 7 of that section.

Sec. 5. NRS 433B.183 is hereby amended to read as follows:

433B.183 1. A division facility which provides residential treatment to children shall secure from appropriate law enforcement agencies information on the background and personal history of ~~an~~ each employee of the facility to determine ~~whether~~:

(a) Whether the employee has been convicted of:

~~(a)~~ (1) Murder, voluntary manslaughter, involuntary manslaughter or mayhem;

~~(b)~~ (2) Any other felony involving the use or threatened use of force or violence or the use of a firearm or other deadly weapon;

~~(c)~~ (3) Assault with intent to kill or to commit sexual assault or mayhem;

~~(d)~~ (4) Battery which results in substantial bodily harm to the victim;

(5) Battery that constitutes domestic violence that is punishable as a felony;

(6) Battery that constitutes domestic violence, other than a battery described in subparagraph (5), within the immediately preceding 3 years;



(7) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure , *an offense involving pornography and a minor* or any other sexually related crime;

~~[(e)]~~ (8) *A crime involving pandering or prostitution, including, without limitation, a violation of any provision of NRS 201.295 to 201.440, inclusive, other than a violation of NRS 201.354 by engaging in prostitution;*

(9) Abuse or neglect of a child ~~for contributory delinquency;~~
~~—[(f)]~~ , *including, without limitation, a violation of any provision of NRS 200.508 or 200.5083;*

(10) 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)]~~ *within the immediately preceding 3 years;*

(11) *A violation of any federal or state law prohibiting driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance that is punishable as a felony;*

(12) *A violation of any federal or state law prohibiting driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance, other than a violation described in subparagraph (11), within the immediately preceding 3 years;*

(13) Abuse, neglect, exploitation, isolation or abandonment 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; or

~~[(h)]~~ (14) Any offense involving *arson*, fraud, theft, embezzlement, burglary, robbery, fraudulent conversion , ~~for~~ misappropriation of property *or perjury* within the immediately preceding 7 years ~~;~~ ; or

(b) Whether there are criminal charges pending against the employee for a crime listed in paragraph (a).

2. An employee must submit to the Division ~~two~~ a complete ~~sets~~ set of fingerprints and written authorization 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.

3. The Division may exchange with the Central Repository or the Federal Bureau of Investigation any information concerning the fingerprints submitted.



4. The Division may charge an employee investigated pursuant to this section for the reasonable cost of that investigation.

5. *When a report from the Federal Bureau of Investigation is received by the Central Repository, the Central Repository shall immediately forward a copy of the report to the Division for a determination of whether the employee has criminal charges pending against him or her for a crime listed in paragraph (a) of subsection 1 or has been convicted of a crime listed in paragraph (a) of subsection 1.*

6. An employee who is required to submit to an investigation required pursuant to this section shall not have contact with a child in a division facility without supervision before the investigation of the background and personal history of the employee has been conducted.

~~16.1~~ 7. The division facility shall conduct an investigation of each employee pursuant to this section at least once every 5 years after the initial investigation.

8. *For the purposes of this section, the period during which criminal charges are pending against an employee for a crime listed in paragraph (a) of subsection 1 begins when the employee is arrested for such a crime and ends when:*

(a) A determination is made as to the guilt or innocence of the employee with regard to such a crime at a trial or by a plea; or

(b) The prosecuting attorney makes a determination to:

(1) Decline charging the employee with a crime listed in paragraph (a) of subsection 1; or

(2) Proceed with charges against the employee for only one or more crimes not listed in paragraph (a) of subsection 1.

Sec. 6. NRS 433B.185 is hereby amended to read as follows:

433B.185 1. Upon receiving information from the Central Repository for Nevada Records of Criminal History pursuant to NRS 433B.183 or evidence from any other source that an employee of a division facility that provides residential treatment for children

~~has~~ :

(a) Has criminal charges pending against him or her for a crime listed in paragraph (a) of subsection 1 of NRS 433B.183, the administrative officer may terminate the employment of the employee after allowing the employee time to correct the information as required pursuant to subsection 2; or

(b) Has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 433B.183, the administrative officer shall terminate the employment of the employee after allowing the



employee time to correct the information as required pursuant to subsection 2.

2. If an employee believes that the information provided to the division facility pursuant to subsection 1 is incorrect, the employee must inform the division facility immediately. A division facility that is so informed shall give the employee 30 days to correct the information.

3. During the period in which an employee seeks to correct information pursuant to subsection 2, it is within the discretion of the administrative officer whether to allow the employee to continue to work for the division facility, except that the employee shall not have contact with a child in the division facility without supervision during such period.

4. For the purposes of this section, the period during which criminal charges are pending against an employee for a crime listed in paragraph (a) of subsection 1 of NRS 433B.183 begins and ends as set forth in subsection 8 of that section.

Sec. 7. This act becomes effective on January 1, 2022.

