

ASSEMBLY BILL NO. 224—ASSEMBLYMAN O’NEILL

MARCH 5, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing records of criminal history. (BDR 14-977)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 criminal history; revising provisions relating to records of criminal history; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law establishes the Central Repository for Nevada Records of
2 Criminal History for the collection and maintenance of certain information relating
3 to records of criminal history. Under existing law, the General Services Division of
4 the Department of Public Safety is authorized to request of and receive from the
5 Federal Bureau of Investigation the background and personal history of a person by
6 submitting to the Federal Bureau of Investigation a complete set of fingerprints of
7 the person which was received by the Central Repository. (NRS 179A.075) **Section**
8 **1** of this bill provides that such information may be requested of and received from
9 the Federal Bureau of Investigation by, depending upon the purpose of the request,
10 the submission of a complete set of fingerprints, one or more fingerprints or other
11 “biometric identifier” which is defined in this bill as a fingerprint, palm print, scar,
12 bodily mark, tattoo, voiceprint, facial image, retina image or iris image of a person.
13 **Section 1** also requires the Central Repository to adopt certain regulations
14 governing biometric identifiers and the information and data derived therefrom.

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

1 **Section 1.** NRS 179A.075 is hereby amended to read as
2 follows:
3 179A.075 1. The Central Repository for Nevada Records of
4 Criminal History is hereby created within the General Services
5 Division of the Department.



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

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

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

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

13 (a) Through an electronic network;

14 (b) On a medium of magnetic storage; or

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

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

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

27 (1) Records of criminal history; and

28 (2) The DNA profile of a person from whom a biological
29 specimen is obtained pursuant to NRS 176.09123 or 176.0913.

30 (b) When practicable, use a record of the personal identifying
31 information of a subject as the basis for any records maintained
32 regarding him or her.

33 (c) Upon request, provide the information that is contained in
34 the Central Repository to the State Disaster Identification Team of
35 the Division of Emergency Management of the Department.

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

41 5. The Division may:

42 (a) Disseminate any information which is contained in the
43 Central Repository to any other agency of criminal justice;



1 (b) Enter into cooperative agreements with repositories of the
2 United States and other states to facilitate exchanges of information
3 that may be disseminated pursuant to paragraph (a); and

4 (c) Request of and receive from the Federal Bureau of
5 Investigation information on the background and personal history of
6 any person whose record of fingerprints *or other biometric*
7 *identifier* the Central Repository submits to the Federal Bureau of
8 Investigation and:

9 (1) Who has applied to any agency of the State of Nevada or
10 any political subdivision thereof for a license which it has the power
11 to grant or deny;

12 (2) With whom any agency of the State of Nevada or any
13 political subdivision thereof intends to enter into a relationship of
14 employment or a contract for personal services;

15 (3) Who has applied to any agency of the State of Nevada or
16 any political subdivision thereof to attend an academy for training
17 peace officers approved by the Peace Officers' Standards and
18 Training Commission;

19 (4) For whom such information is required to be obtained
20 pursuant to NRS 62B.270, 62G.223, 62G.353, 424.031, 432A.170,
21 432B.198, 433B.183, 449.123 and 449.4329; or

22 (5) About whom any agency of the State of Nevada or any
23 political subdivision thereof is authorized by law to have accurate
24 personal information for the protection of the agency or the persons
25 within its jurisdiction.

26 {→}

27 6. To request and receive information from the Federal Bureau
28 of Investigation concerning a person pursuant to {this} subsection {
29 5, the Central Repository must receive {the} :

30 (a) *The person's complete set of fingerprints for the purposes*
31 *of:*

32 (1) *Booking the person into a city or county jail or*
33 *detention facility;*

34 (2) *Employment;*

35 (3) *Contractual services; or*

36 (4) *Services related to occupational licensing;*

37 (b) *One or more of the person's fingerprints for the purposes*
38 *of mobile identification by an agency of criminal justice; or*

39 (c) *Any other biometric identifier of the person as it may*
40 *require for the purposes of:*

41 (1) *Arrest; or*

42 (2) *Criminal investigation,*

43 ← from the agency *of criminal justice* or *agency of the State of*
44 *Nevada or any* political subdivision *thereof* and submit the



1 ~~[fingerprints]~~ *received data* to the Federal Bureau of Investigation
2 for its report.

3 ~~[6.]~~ 7. The Central Repository shall:

4 (a) Collect and maintain records, reports and compilations of
5 statistical data submitted by any agency pursuant to subsection 2.

6 (b) Tabulate and analyze all records, reports and compilations of
7 statistical data received pursuant to this section.

8 (c) Disseminate to federal agencies engaged in the collection of
9 statistical data relating to crime information which is contained in
10 the Central Repository.

11 (d) Investigate the criminal history of any person who:

12 (1) Has applied to the Superintendent of Public Instruction
13 for the issuance or renewal of a license;

14 (2) Has applied to a county school district, charter school or
15 private school for employment; or

16 (3) Is employed by a county school district, charter school or
17 private school,

18 ↪ and notify the superintendent of each county school district, the
19 governing body of each charter school and the Superintendent of
20 Public Instruction, or the administrator of each private school, as
21 appropriate, if the investigation of the Central Repository indicates
22 that the person has been convicted of a violation of NRS 200.508,
23 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or
24 any offense involving moral turpitude.

25 (e) Upon discovery, notify the superintendent of each county
26 school district, the governing body of each charter school or the
27 administrator of each private school, as appropriate, by providing
28 the superintendent, governing body or administrator with a list of all
29 persons:

30 (1) Investigated pursuant to paragraph (d); or

31 (2) Employed by a county school district, charter school or
32 private school whose fingerprints were sent previously to the
33 Central Repository for investigation,

34 ↪ who the Central Repository's records indicate have been
35 convicted of a violation of NRS 200.508, 201.230, 453.3385,
36 453.339 or 453.3395, or convicted of a felony or any offense
37 involving moral turpitude since the Central Repository's initial
38 investigation. The superintendent of each county school district, the
39 governing body of a charter school or the administrator of each
40 private school, as applicable, shall determine whether further
41 investigation or action by the district, charter school or private
42 school, as applicable, is appropriate.

43 (f) Investigate the criminal history of each person who submits
44 *one or more* fingerprints *or other biometric identifier* or has
45 ~~[fingerprints]~~ *such data* submitted pursuant to NRS 62B.270,



1 62G.223, 62G.353, 424.031, 432A.170, 432B.198, 433B.183,
2 449.122, 449.123 or 449.4329.

3 (g) On or before July 1 of each year, prepare and present to the
4 Governor a printed annual report containing the statistical data
5 relating to crime received during the preceding calendar year.
6 Additional reports may be presented to the Governor throughout the
7 year regarding specific areas of crime if they are approved by the
8 Director of the Department.

9 (h) On or before July 1 of each year, prepare and submit to the
10 Director of the Legislative Counsel Bureau for submission to the
11 Legislature, or to the Legislative Commission when the Legislature
12 is not in regular session, a report containing statistical data about
13 domestic violence in this State.

14 (i) Identify and review the collection and processing of
15 statistical data relating to criminal justice and the delinquency of
16 children by any agency identified in subsection 2 and make
17 recommendations for any necessary changes in the manner of
18 collecting and processing statistical data by any such agency.

19 ~~17.1~~ (j) *Adopt regulations governing biometric identifiers and*
20 *the information and data derived from biometric identifiers,*
21 *including, without limitation:*

22 (1) *Their collection, use, safeguarding, handling, retention,*
23 *storage, dissemination and destruction; and*

24 (2) *The methods by which a person may request the*
25 *removal of his or her biometric identifiers from the Central*
26 *Repository and any other agency where his or her biometric*
27 *identifiers have been stored.*

28 8. The Central Repository may:

29 (a) In the manner prescribed by the Director of the Department,
30 disseminate compilations of statistical data and publish statistical
31 reports relating to crime or the delinquency of children.

32 (b) Charge a reasonable fee for any publication or special report
33 it distributes relating to data collected pursuant to this section. The
34 Central Repository may not collect such a fee from an agency of
35 criminal justice, any other agency dealing with crime or the
36 delinquency of children which is required to submit information
37 pursuant to subsection 2 or the State Disaster Identification Team of
38 the Division of Emergency Management of the Department. All
39 money collected pursuant to this paragraph must be used to pay for
40 the cost of operating the Central Repository.

41 (c) In the manner prescribed by the Director of the Department,
42 use electronic means to receive and disseminate information
43 contained in the Central Repository that it is authorized to
44 disseminate pursuant to the provisions of this chapter.

45 ~~18.1~~ 9. As used in this section:



1 (a) *“Biometric identifier” means a fingerprint, palm print,*
2 *scar, bodily mark, tattoo, voiceprint, facial image, retina image or*
3 *iris image of a person.*

4 (b) *“Mobile identification” means the collection, storage,*
5 *transmission, reception, search, access or processing of a*
6 *biometric identifier using a handheld device.*

7 (c) “Personal identifying information” means any information
8 designed, commonly used or capable of being used, alone or in
9 conjunction with any other information, to identify a person,
10 including, without limitation:

11 (1) The name, driver’s license number, social security
12 number, date of birth and photograph or computer-generated image
13 of a person; and

14 (2) ~~The fingerprints, voiceprint, retina image and iris image~~
15 *A biometric identifier* of a person.

16 ~~(b)~~ (d) “Private school” has the meaning ascribed to it in
17 NRS 394.103.

18 **Sec. 2.** NRS 179A.175 is hereby amended to read as follows:

19 179A.175 1. The Director of the Department shall establish
20 within the Central Repository a program for reporting crimes that
21 manifest evidence of prejudice based on race, color, religion,
22 national origin, physical or mental disability, sexual orientation or
23 gender identity or expression.

24 2. The program must be designed to collect, compile and
25 analyze statistical data about crimes that manifest evidence of
26 prejudice based on race, color, religion, national origin, physical or
27 mental disability, sexual orientation or gender identity or
28 expression. The Director shall adopt guidelines for the collection of
29 the statistical data, including, but not limited to, the criteria to
30 establish the presence of prejudice.

31 3. The Central Repository shall include in its annual report to
32 the Governor pursuant to subsection ~~6~~ 7 of NRS 179A.075, and in
33 any other appropriate report, an independent section relating solely
34 to the analysis of crimes that manifest evidence of prejudice based
35 on race, color, religion, national origin, physical or mental
36 disability, sexual orientation or gender identity or expression.

37 4. Data acquired pursuant to this section must be used only for
38 research or statistical purposes and must not contain any information
39 that may reveal the identity of an individual victim of a crime.

40 5. As used in this section, “gender identity or expression” has
41 the meaning ascribed to it in NRS 193.0148.

42 **Sec. 3.** NRS 391.033 is hereby amended to read as follows:

43 391.033 1. All licenses for teachers and other educational
44 personnel are granted by the Superintendent of Public Instruction



1 pursuant to regulations adopted by the Commission and as
2 otherwise provided by law.

3 2. An application for the issuance of a license must include the
4 social security number of the applicant.

5 3. Every applicant for a license must submit with his or her
6 application a complete set of his or her fingerprints and written
7 permission authorizing the Superintendent to forward the
8 fingerprints to the Central Repository for Nevada Records of
9 Criminal History for its initial report on the criminal history of the
10 applicant and for reports thereafter upon renewal of the license
11 pursuant to subsection ~~6~~ 7 of NRS 179A.075, and for submission
12 to the Federal Bureau of Investigation for its report on the criminal
13 history of the applicant.

14 4. The Superintendent may issue a provisional license pending
15 receipt of the reports of the Federal Bureau of Investigation and the
16 Central Repository for Nevada Records of Criminal History if the
17 Superintendent determines that the applicant is otherwise qualified.

18 5. A license must be issued to, or renewed for, as applicable, an
19 applicant if:

20 (a) The Superintendent determines that the applicant is
21 qualified;

22 (b) The reports on the criminal history of the applicant from the
23 Federal Bureau of Investigation and the Central Repository for
24 Nevada Records of Criminal History:

25 (1) Do not indicate that the applicant has been convicted of a
26 felony or any offense involving moral turpitude; or

27 (2) Indicate that the applicant has been convicted of a felony
28 or an offense involving moral turpitude but the Superintendent
29 determines that the conviction is unrelated to the position within the
30 county school district or charter school for which the applicant
31 applied or for which he or she is currently employed, as applicable;
32 and

33 (c) For initial licensure, the applicant submits the statement
34 required pursuant to NRS 391.034.

35 **Sec. 4.** NRS 391.035 is hereby amended to read as follows:

36 391.035 1. Except as otherwise provided in NRS 239.0115,
37 an application to the Superintendent of Public Instruction for a
38 license as a teacher or to perform other educational functions and all
39 documents in the Department's file relating to the application,
40 including:

41 (a) The applicant's health records;

42 (b) The applicant's fingerprints and any report from the Federal
43 Bureau of Investigation or the Central Repository for Nevada
44 Records of Criminal History;



1 (c) Transcripts of the applicant's records at colleges or other
2 educational institutions;

3 (d) The applicant's scores on the examinations administered
4 pursuant to the regulations adopted by the Commission;

5 (e) Any correspondence concerning the application; and

6 (f) Any other personal information,

7 ↪ are confidential.

8 2. It is unlawful to disclose or release the information in an
9 application or any related document except pursuant to paragraph
10 (d) of subsection ~~6~~ 7 of NRS 179A.075 or the applicant's written
11 authorization.

12 3. The Department shall, upon request, make available the
13 applicant's file for inspection by the applicant during regular
14 business hours.

15 **Sec. 5.** This act becomes effective upon passage and approval.

