

SENATE BILL NO. 303—SENATOR NOLAN

MARCH 17, 2003

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning dissemination of records of criminal history by Central Repository for Nevada Records of Criminal History. (BDR 14-967)

FISCAL NOTE: Effect on Local Government: Yes.
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 criminal records; authorizing the Central Repository for Nevada Records of Criminal History to conduct investigations and to disseminate certain information concerning applicants and employees of private schools; expanding the offenses about which certain employers may obtain information concerning employees; authorizing such employers to obtain the same information about volunteers and prospective volunteers; providing a penalty; and providing other matters properly relating thereto.

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

1 **Section 1.** NRS 179.301 is hereby amended to read as follows:
2 179.301 1. The State Gaming Control Board and Nevada
3 Gaming Commission and their employees, agents and
4 representatives may inquire into and inspect any records sealed
5 pursuant to NRS 179.245 or 179.255, if the event or conviction was
6 related to gaming, ~~for purposes of determining~~ *to determine* the
7 suitability or qualifications of any person to hold a state gaming
8 license, manufacturer's, seller's or distributor's license or gaming
9 work permit pursuant to chapter 463 of NRS. Events and
10 convictions, if any, which are the subject of an order sealing records



1 may form the basis for recommendation, denial or revocation of
2 those licenses or work permits.

3 2. The Central Repository *for Nevada Records of Criminal*
4 *History* and its employees may inquire into and inspect any records
5 sealed pursuant to NRS 179.245 or 179.255 that constitute
6 information relating to sexual offenses, and may notify employers of
7 the information in accordance with NRS 179A.180 to 179A.240,
8 inclusive.

9 3. Records which have been sealed pursuant to NRS 179.245
10 or 179.255 and which are retained in the statewide registry
11 established pursuant to NRS 179B.200 may be inspected pursuant to
12 chapter 179B of NRS by an officer or employee of the Central
13 Repository *for Nevada Records of Criminal History* or a law
14 enforcement officer in the regular course of his duties.

15 4. *As used in this section:*

16 (a) *“Information relating to sexual offenses” means*
17 *information contained in or concerning a record of criminal*
18 *history, or the records of criminal history of the United States or*
19 *another state, relating in any way to a sexual offense.*

20 (b) *“Sexual offense” has the meaning ascribed to it in*
21 *NRS 179A.073.*

22 **Sec. 2.** NRS 179A.075 is hereby amended to read as follows:

23 179A.075 1. The Central Repository for Nevada Records of
24 Criminal History is hereby created within the Nevada Highway
25 Patrol Division of the Department.

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

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

30 (b) Submit the information collected to the Central Repository
31 in the manner recommended by the Advisory Committee and
32 approved by the Director of the Department.

33 3. Each agency of criminal justice shall submit the information
34 relating to ~~sexual offenses and other~~ records of criminal history
35 that it creates or issues, and any information in its possession
36 relating to the genetic markers of a biological specimen of a person
37 who is convicted of an offense listed in subsection 4 of NRS
38 176.0913, to the Division in the manner prescribed by the Director
39 of the Department. The information must be submitted to the
40 Division:

41 (a) Through an electronic network;

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

43 (c) In the manner prescribed by the Director of the
44 Department,



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1 within the period prescribed by the Director of the Department. If an
2 agency has submitted a record regarding the arrest of a person who
3 is later determined by the agency not to be the person who
4 committed the particular crime, the agency shall, immediately upon
5 making that determination, so notify the Division. The Division
6 shall delete all references in the Central Repository relating to that
7 particular arrest.

8 4. The Division shall, in the manner prescribed by the Director
9 of the Department:

10 (a) Collect, maintain and arrange all information submitted to it
11 relating to:

12 (1) ~~Sexual offenses and other records~~ *Records* of criminal
13 history; and

14 (2) The genetic markers of a biological specimen of a person
15 who is convicted of an offense listed in subsection 4 of
16 NRS 176.0913.

17 (b) When practicable, use a record of the personal identifying
18 information of a subject as the basis for any records maintained
19 regarding him.

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

23 5. The Division may:

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

26 (b) Enter into cooperative agreements with federal and state
27 repositories to facilitate exchanges of information that may be
28 disseminated pursuant to paragraph (a); and

29 (c) Request of and receive from the Federal Bureau of
30 Investigation information on the background and personal history of
31 any person whose record of fingerprints the Central Repository
32 submits to the Federal Bureau of Investigation and:

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

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

39 (3) About whom any agency of the State of Nevada or any
40 political subdivision thereof has a legitimate need to have accurate
41 personal information for the protection of the agency or the persons
42 within its jurisdiction; or

43 (4) For whom such information is required to be obtained
44 pursuant to NRS 449.179.

45 6. The Central Repository shall:



- 1 (a) Collect and maintain records, reports and compilations of
2 statistical data submitted by any agency pursuant to subsection 2.
3 (b) Tabulate and analyze all records, reports and compilations of
4 statistical data received pursuant to this section.
5 (c) Disseminate to federal agencies engaged in the collection of
6 statistical data relating to crime information which is contained in
7 the Central Repository.
8 (d) Investigate the criminal history of any person who:
9 (1) Has applied to the Superintendent of Public Instruction
10 for a license;
11 (2) Has applied to a county school district *or a private school*
12 for employment; or
13 (3) Is employed by a county school district ~~or~~ *or a private*
14 *school,*
15 and notify the superintendent of each county school district and the
16 Superintendent of Public Instruction , *or the administrator of each*
17 *private school, as appropriate,* if the investigation of the Central
18 Repository indicates that the person has been convicted of a
19 violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395,
20 or convicted of a felony or any offense involving moral turpitude.
21 (e) Upon discovery, notify the superintendent of each county
22 school district *or the administrator of each private school, as*
23 *appropriate,* by providing ~~him~~ *the superintendent or*
24 *administrator* with a list of all persons:
25 (1) Investigated pursuant to paragraph (d); or
26 (2) Employed by a county school district *or private school*
27 whose fingerprints were sent previously to the Central Repository
28 for investigation,
29 who the Central Repository's records indicate have been convicted
30 of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or
31 453.3395, or convicted of a felony or any offense involving moral
32 turpitude since the Central Repository's initial investigation. The
33 superintendent of each county school district *or the administrator*
34 *of each private school, as applicable,* shall determine whether
35 further investigation or action by the district *or private school, as*
36 *applicable,* is appropriate.
37 (f) Investigate the criminal history of each person who submits
38 fingerprints or has his fingerprints submitted pursuant to NRS
39 449.176 or 449.179.
40 (g) On or before July 1 of each year, prepare and present to the
41 Governor a printed annual report containing the statistical data
42 relating to crime received during the preceding calendar year.
43 Additional reports may be presented to the Governor throughout the
44 year regarding specific areas of crime if they are recommended by



1 the Advisory Committee and approved by the Director of the
2 Department.

3 (h) On or before July 1 of each year, prepare and submit to the
4 Director of the Legislative Counsel Bureau, for submission to the
5 Legislature, or the Legislative Commission when the Legislature is
6 not in regular session, a report containing statistical data about
7 domestic violence in this state.

8 (i) Identify and review the collection and processing of
9 statistical data relating to criminal justice and the delinquency of
10 children by any agency identified in subsection 2, and make
11 recommendations for any necessary changes in the manner of
12 collecting and processing statistical data by any such agency.

13 7. The Central Repository may:

14 (a) At the recommendation of the Advisory Committee and in
15 the manner prescribed by the Director of the Department,
16 disseminate compilations of statistical data and publish statistical
17 reports relating to crime or the delinquency of children.

18 (b) Charge a reasonable fee for any publication or special report
19 it distributes relating to data collected pursuant to this section. The
20 Central Repository may not collect such a fee from an agency of
21 criminal justice, any other agency dealing with crime or the
22 delinquency of children which is required to submit information
23 pursuant to subsection 2 or the State Disaster Identification Team of
24 the Division of Emergency Management of the Department. All
25 money collected pursuant to this paragraph must be used to pay for
26 the cost of operating the Central Repository.

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

31 8. As used in this section:

32 (a) "Advisory Committee" means the committee established by
33 the Director of the Department pursuant to NRS 179A.078.

34 (b) "Personal identifying information" means any information
35 designed, commonly used or capable of being used, alone or in
36 conjunction with any other information, to identify a person,
37 including, without limitation:

38 (1) The name, driver's license number, social security
39 number, date of birth and photograph or computer generated image
40 of a person; and

41 (2) The fingerprints, voiceprint, retina image and iris image
42 of a person.

43 (c) *"Private school" has the meaning ascribed to it in*
44 *NRS 394.103.*



1 **Sec. 3.** NRS 179A.080 is hereby amended to read as follows:
2 179A.080 The Director of the Department is responsible for
3 administering this chapter and may adopt regulations for that
4 purpose. The Director shall:

5 1. Adopt regulations for the security of the Central Repository
6 so that it is adequately protected from fire, theft, loss, destruction,
7 other hazards and unauthorized access.

8 2. Adopt regulations and standards for personnel employed by
9 agencies of criminal justice in positions of responsibility for
10 maintenance and dissemination of information relating to ~~sexual~~
11 ~~offenses and other~~ records of criminal history ~~[]~~ *and information*
12 *disseminated pursuant to NRS 179A.180 to 179A.240, inclusive.*

13 3. Provide for audits of informational systems by qualified
14 public or private agencies, organizations or persons.

15 **Sec. 4.** NRS 179A.100 is hereby amended to read as follows:

16 179A.100 1. The following records of criminal history may
17 be disseminated by an agency of criminal justice without any
18 restriction pursuant to this chapter:

19 (a) Any which reflect records of conviction only; and

20 (b) Any which pertain to an incident for which a person is
21 currently within the system of criminal justice, including parole or
22 probation.

23 2. Without any restriction pursuant to this chapter, a record of
24 criminal history or the absence of such a record may be:

25 (a) Disclosed among agencies which maintain a system for the
26 mutual exchange of criminal records.

27 (b) Furnished by one agency to another to administer the system
28 of criminal justice, including the furnishing of information by a
29 police department to a district attorney.

30 (c) Reported to the Central Repository.

31 3. An agency of criminal justice shall disseminate to a
32 prospective employer, upon request, records of criminal history
33 concerning a prospective employee or volunteer which:

34 (a) Reflect convictions only; or

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

38 4. ~~[The Central Repository shall disseminate to a prospective~~
39 ~~or current employer, upon request, information relating to sexual~~
40 ~~offenses concerning an employee, prospective employee, volunteer~~
41 ~~or prospective volunteer who gives his written consent to the release~~
42 ~~of that information.~~

43 ~~—5.]~~ Records of criminal history must be disseminated by an
44 agency of criminal justice upon request, to the following persons or
45 governmental entities:



- 1 (a) The person who is the subject of the record of criminal
2 history for the purposes of NRS 179A.150.
- 3 (b) The person who is the subject of the record of criminal
4 history or his attorney of record when the subject is a party in a
5 judicial, administrative, licensing, disciplinary or other proceeding
6 to which the information is relevant.
- 7 (c) The State Gaming Control Board.
- 8 (d) The State Board of Nursing.
- 9 (e) The Private Investigator's Licensing Board to investigate an
10 applicant for a license.
- 11 (f) A public administrator to carry out his duties as prescribed in
12 chapter 253 of NRS.
- 13 (g) A public guardian to investigate a ward or proposed ward or
14 persons who may have knowledge of assets belonging to a ward or
15 proposed ward.
- 16 (h) Any agency of criminal justice of the United States or of
17 another state or the District of Columbia.
- 18 (i) Any public utility subject to the jurisdiction of the Public
19 Utilities Commission of Nevada when the information is necessary
20 to conduct a security investigation of an employee or prospective
21 employee, or to protect the public health, safety or welfare.
- 22 (j) Persons and agencies authorized by statute, ordinance,
23 executive order, court rule, court decision or court order as
24 construed by appropriate state or local officers or agencies.
- 25 (k) Any person or governmental entity which has entered into a
26 contract to provide services to an agency of criminal justice relating
27 to the administration of criminal justice, if authorized by the
28 contract, and if the contract also specifies that the information will
29 be used only for stated purposes and that it will be otherwise
30 confidential in accordance with state and federal law and regulation.
- 31 (l) Any reporter for the electronic or printed media in his
32 professional capacity for communication to the public.
- 33 (m) Prospective *or current* employers *of prospective or current*
34 *employees or volunteers* if the person who is the subject of the
35 information has given written consent to the release of that
36 information by the agency which maintains it.
- 37 (n) For the express purpose of research, evaluative or statistical
38 programs pursuant to an agreement with an agency of criminal
39 justice.
- 40 (o) An agency which provides child welfare services, as defined
41 in NRS 432B.030.
- 42 (p) The Welfare Division of the Department of Human
43 Resources or its designated representative.
- 44 (q) An agency of this or any other state or the Federal
45 Government that is conducting activities pursuant to Part D of



1 ~~[Title]~~ *Subchapter* IV of *Chapter 7 of Title 42 of* the Social
2 Security Act, 42 U.S.C. §§ 651 et seq.

3 (r) The State Disaster Identification Team of the Division of
4 Emergency Management of the Department.

5 (s) The Commissioner of Insurance.

6 ~~[6.]~~ **5.** Agencies of criminal justice in this state which receive
7 information from sources outside this state concerning transactions
8 involving criminal justice which occur outside Nevada shall treat the
9 information as confidentially as is required by the provisions of this
10 chapter.

11 **Sec. 5.** NRS 179A.110 is hereby amended to read as follows:

12 179A.110 No person who receives information relating to
13 ~~[sexual offenses or other]~~ records of criminal history pursuant to this
14 chapter *or who receives information pursuant to NRS 179A.180 to*
15 *179A.240, inclusive,* may disseminate it further without express
16 authority of law or in accordance with a court order. This section
17 does not prohibit the dissemination of material by an employee of
18 the electronic or printed media in his professional capacity for
19 communication to the public.

20 **Sec. 6.** NRS 179A.130 is hereby amended to read as follows:

21 179A.130 Each agency of criminal justice which maintains and
22 disseminates information relating to ~~[sexual offenses or other]~~
23 records of criminal history must maintain a log of each
24 dissemination of that information other than a dissemination of the
25 fact that the agency has no record relating to a certain person. The
26 log must be maintained for at least 1 year after the information is
27 disseminated, and must contain:

- 28 1. An entry showing to what agency or person the information
29 relating to ~~[sexual offenses or other]~~ records of criminal history
30 were provided;
- 31 2. The date on which the information was provided;
- 32 3. The person who is the subject of the information; and
- 33 4. A brief description of the information provided.

34 **Sec. 7.** NRS 179A.140 is hereby amended to read as follows:

35 179A.140 1. ~~[An]~~ *Except as otherwise provided in this*
36 *subsection, an* agency of criminal justice may charge a reasonable
37 fee for information relating to ~~[sexual offenses or other]~~ records of
38 criminal history ~~[furnished]~~ *provided* to any person or governmental
39 entity . ~~[except]~~ *An agency of criminal justice shall not charge a*
40 *fee for providing such information to* another agency of criminal
41 justice ~~[and]~~ *if the information is provided for purposes of the*
42 *administration of criminal justice, or for providing such*
43 *information to* the State Disaster Identification Team of the
44 Division of Emergency Management of the Department. The
45 Central Repository shall not charge such a fee for information



1 relating to a person regarding whom the Central Repository
2 ~~furnished~~ *provided* a similar report within the immediately
3 preceding 6 months in conjunction with the application by that
4 person for professional licensure.

5 2. All money received or collected by the Department pursuant
6 to this section must be used to defray the cost of operating the
7 Central Repository.

8 **Sec. 8.** NRS 179A.150 is hereby amended to read as follows:
9 179A.150 1. The Central Repository and each state,
10 municipal, county or metropolitan police agency shall permit a
11 person, who is or believes he may be the subject of information
12 relating to ~~sexual offenses or other~~ records of criminal history
13 maintained by that agency, to appear in person during normal
14 business hours of the agency and inspect any recorded information
15 held by that agency pertaining to him. This right of access does not
16 extend to data contained in intelligence, investigative or other
17 related files, and does not include any information other than ~~that~~
18 ~~defined as information relating to sexual offenses or~~ *information*
19 *contained in* a record of criminal history.

20 2. Each such agency shall adopt regulations and make available
21 necessary forms to permit inspection and review of information
22 relating to ~~sexual offenses or~~ other records of criminal history by
23 those persons who are the subjects thereof. The regulations must
24 specify:

25 (a) The reasonable periods during which the records are
26 available for inspection;

27 (b) The requirements for proper identification of the persons
28 seeking access to the records; and

29 (c) The reasonable charges or fees, if any, for inspecting records.

30 3. Each such agency shall procure for and furnish to any person
31 who requests it and pays a reasonable fee therefor, all of the
32 information contained in the Central Repository which pertains to
33 the person making the request.

34 4. The Director of the Department shall adopt regulations
35 governing:

36 (a) All challenges to the accuracy or sufficiency of information
37 relating to ~~sexual offenses or other~~ records of criminal history by
38 the person who is the subject of the allegedly inaccurate or
39 insufficient record;

40 (b) The correction of any information relating to ~~sexual~~
41 ~~offenses or other record~~ *records* of criminal history found by the
42 Director to be inaccurate, insufficient or incomplete in any material
43 respect;



1 (c) The dissemination of corrected information to those persons
2 or agencies which have previously received inaccurate or
3 incomplete information; and

4 (d) A time limit of not more than 90 days within which
5 inaccurate or insufficient information relating to ~~[sexual offenses or~~
6 ~~other]~~ records of criminal history must be corrected and the
7 corrected information disseminated. The corrected information must
8 be sent to each person who requested the information in the 12
9 months preceding the date on which the correction was made, and
10 notice of the correction must be sent to each person entitled thereto
11 pursuant to NRS 179A.210, to the address given by each person
12 who requested the information when the request was made.

13 **Sec. 9.** NRS 179A.180 is hereby amended to read as follows:

14 179A.180 As used in NRS 179A.180 to 179A.240, inclusive,
15 unless the context otherwise requires:

16 1. "Employee" means a person who renders time and services
17 to an employer, *with or without compensation*, and whose regular
18 course of duties places that person in a position to:

19 (a) Exercise supervisory or disciplinary control over children;

20 (b) Have direct access to or contact with children served by the
21 employer; or

22 (c) Have access to information or records maintained by the
23 employer relating to identifiable children served by the
24 employer,

25 and includes a prospective employee, ~~[but does not include a]~~
26 volunteer or prospective volunteer.

27 2. "Employer" means a person, or a governmental agency or
28 political subdivision of this state that is not an agency of criminal
29 justice, whose employees regularly render services to children,
30 including , without limitation , care, treatment, transportation,
31 instruction, companionship, entertainment and custody.

32 **Sec. 10.** NRS 179A.190 is hereby amended to read as follows:

33 179A.190 1. Notice of information relating to ~~[sexual]~~ *the*
34 offenses *listed in subsection 4* may be disseminated to employers
35 pursuant to NRS 179A.180 to 179A.240, inclusive.

36 2. An employer may consider such a notice of information
37 concerning an employee when making a decision to hire, retain,
38 suspend or discharge the employee, and is not liable in an action
39 alleging discrimination based upon consideration of information
40 obtained pursuant to NRS 179A.180 to 179A.240, inclusive.

41 3. The provisions of NRS 179A.180 to 179A.240, inclusive, do
42 not limit or restrict any other statute specifically permitting the
43 dissemination or release of information relating to ~~[sexual offenses.]~~
44 *the offenses listed in subsection 4.*



1 4. *The offenses for which a notice of information may be*
2 *disseminated pursuant to subsection 1 includes information*
3 *contained in or concerning a record of criminal history, or the*
4 *records of criminal history of the United States or another state,*
5 *relating in any way to:*

- 6 (a) *A sexual offense;*
- 7 (b) *Murder, voluntary manslaughter or mayhem;*
- 8 (c) *Assault with intent to kill or to commit mayhem;*
- 9 (d) *Abuse or neglect of a child or contributory delinquency;*
- 10 (e) *A violation of any provision of chapter 453 of NRS;*
- 11 (f) *A violation committed within the immediately preceding 7*
12 *years of any federal or state law regulating the possession,*
13 *distribution or use of any controlled substance or any dangerous*
14 *drug as defined in chapter 454 of NRS;*
- 15 (g) *A violation of any provision of NRS 200.5099;*
- 16 (h) *A violation of any provision of NRS 484.379 or 484.3795;*
- 17 (i) *Any offense committed within the immediately preceding 7*
18 *years involving fraud, theft, embezzlement, burglary, robbery,*
19 *fraudulent conversion or misappropriation of property; or*
- 20 (j) *Any other felony committed within the immediately*
21 *preceding 7 years involving the use of a firearm or other deadly*
22 *weapon.*

23 5. *The information described in subsection 4 includes acts*
24 *committed outside this state that would constitute any of the*
25 *offenses listed in that subsection if committed in this state, and*
26 *the aiding, abetting, attempting or conspiring to engage in any of*
27 *the offenses listed in that subsection.*

28 **Sec. 11.** NRS 179A.200 is hereby amended to read as follows:

29 179A.200 1. An employer may request from the Central
30 Repository notice of information relating to ~~sexual~~ *the* offenses
31 *listed in subsection 4 of NRS 179A.190* concerning an employee.

32 2. A request for notice of information relating to ~~sexual~~ *the*
33 offenses *listed in subsection 4 of NRS 179A.190* from an employer
34 must conform to the requirements of the Central Repository. The
35 request must include:

- 36 (a) The name and address of the employer, and the name and
37 signature of the person requesting the notice on behalf of the
38 employer;
- 39 (b) The name and address of the employer's facility in which the
40 employee is employed or seeking to become employed;
- 41 (c) The name, fingerprints and other identifying information of
42 the employee;
- 43 (d) Signed consent by the employee to a search of information
44 relating to ~~sexual~~ *the* offenses *listed in subsection 4 of NRS*



1 **179A.190** concerning him, and for the release of a notice concerning
2 that information;

3 (e) The mailing address of the employee or a signed waiver of
4 the right of the employee to be sent a copy of the information
5 disseminated to the employer as a result of the search of the records
6 of criminal history; and

7 (f) The signature of the employee indicating that he has been
8 notified of:

9 (1) The types of information for which notice is subject to
10 dissemination pursuant to NRS 179A.210, or a description of the
11 information;

12 (2) The employer's right to require a check of the records of
13 criminal history as a condition of employment; and

14 (3) The employee's right, pursuant to NRS 179A.150, to
15 challenge the accuracy or sufficiency of any information
16 disseminated to the employer.

17 **Sec. 12.** NRS 179A.210 is hereby amended to read as follows:

18 179A.210 1. Upon receipt of a request from an employer for
19 notice of information relating to ~~{sexual offenses,}~~ *the offenses*
20 *listed in subsection 4 of NRS 179A.190*, the Central Repository
21 shall undertake a search for the information, unless the request does
22 not conform to the requirements of the Repository. The search must
23 be based on the ~~{employee's fingerprints,}~~ *fingerprints of the*
24 *employee*, or on a number furnished to the employee for
25 identification pursuant to a previous search, as provided by the
26 employer, and must include:

27 (a) Identifying any information relating to ~~{sexual}~~ *the* offenses
28 *listed in subsection 4 of NRS 179A.190* concerning the employee in
29 the Central Repository;

30 (b) Requesting information relating to ~~{sexual}~~ *the* offenses
31 *listed in subsection 4 of NRS 179A.190* concerning the employee
32 from federal repositories and repositories of other states, if
33 authorized by federal law or an agreement entered into pursuant to
34 NRS 179A.075;

35 (c) If the information pertains to an arrest for which no
36 disposition has been reported, contacting appropriate officers in the
37 local jurisdiction where the arrest or prosecution occurred to verify
38 and update the information; and

39 (d) Determining whether the information relating to ~~{sexual}~~ *the*
40 offenses *listed in subsection 4 of NRS 179A.190* is the type of
41 information for which notice is subject to dissemination pursuant to
42 this section.

43 2. Notice of information relating to ~~{sexual}~~ *the* offenses *listed*
44 *in subsection 4 of NRS 179A.190* may be disseminated to an



1 employer who has requested it only if a check of the pertinent
2 records indicates:

3 (a) A conviction for ~~[a-sexual]~~ *any such* offense, or a conviction
4 based on an arrest or on an initial charge for ~~[a-sexual]~~ *any such*
5 offense;

6 (b) An arrest or an initial charge for ~~[a-sexual]~~ *any such* offense
7 *that is* pending at the time of the request; or

8 (c) Two or more incidents resulting in arrest or initial charge for
9 ~~[a-sexual]~~ *any such* offense that have not resulted in a conviction.

10 3. If a search of the records of the Central Repository reveals
11 no information for which notice is subject to release, the Central
12 Repository shall submit the fingerprints of the employee to the
13 Federal Bureau of Investigation for a search of its records of
14 criminal history. The Central Repository shall review all
15 information received from the Federal Bureau of Investigation.
16 Notice of any information received from the Federal Bureau of
17 Investigation may be disseminated only if the information is of a
18 kind for which notice is subject to release pursuant to this section.

19 4. Within 30 days after receipt of a request by an employer for
20 notice of information relating to ~~[sexual-offenses,]~~ *the offenses*
21 *listed in subsection 4 of NRS 179A.190*, the Central Repository
22 shall send a written report of the results of the search to the
23 employer and to the employee, except that if the employee has
24 waived his right to receive the results of the search, the report must
25 be sent only to the employer. If the search revealed:

26 (a) No information for which notice is subject to release, the
27 report must include a statement to that effect; or

28 (b) Information about the employee for which notice is subject
29 to release, the report must include a notice of the type of
30 information, limited to the descriptions set forth in subsection 2,
31 revealed by the search. The notice must not include any further facts
32 or details concerning the information. A statement of the purpose for
33 which the notice is being disseminated, and the procedures by which
34 the employee might challenge the accuracy and sufficiency of the
35 information, must also be included with the report.

36 5. Upon receipt of corrected information relating to ~~[sexual]~~
37 *the offenses listed in subsection 4 of NRS 179A.190* for which
38 notice was disseminated under this section, the Central Repository
39 shall send written notice of the correction to:

40 (a) The employee who was the subject of the search, unless the
41 employee has waived his right to receive such a notice;

42 (b) All employers to whom notice of the results of the search
43 were disseminated within 3 months before the correction; and

44 (c) Upon request of the employee, any other employers who
45 previously received the information.



1 6. Upon receipt of new information relating to ~~sexual~~ *the*
2 offenses *listed in subsection 4 of NRS 179A.190* concerning an
3 employee who was the subject of a search within the previous 3
4 months, for which notice is subject to dissemination under this
5 section, the Central Repository shall send written notice of the
6 information to:

7 (a) The employee who was the subject of the search, unless the
8 employee has waived his right to receive such a notice;

9 (b) All employers to whom a report of the results of the search
10 were disseminated within 3 months before the correction; and

11 (c) Upon request of the employee, any other employers who
12 previously received a report of the results of the search.

13 **Sec. 13.** NRS 179A.230 is hereby amended to read as follows:

14 179A.230 1. A person who is the subject of a request for
15 notice of information ~~relating to sexual offenses~~ pursuant to NRS
16 179A.180 to 179A.240, inclusive, may recover his actual damages
17 in a civil action against:

18 (a) The Central Repository for an intentional or grossly
19 negligent:

20 (1) Dissemination of information relating to ~~sexual~~ *the*
21 offenses *listed in subsection 4 of NRS 179A.190* not authorized for
22 dissemination; or

23 (2) Release of information relating to ~~sexual~~ *the* offenses
24 *listed in subsection 4 of NRS 179A.190* to a person not authorized
25 to receive the information;

26 (b) The Central Repository for an intentional or grossly
27 negligent failure to correct any notice of information relating to
28 ~~sexual~~ *the* offenses *listed in subsection 4 of NRS 179A.190* which
29 was disseminated pursuant to NRS 179A.180 to 179A.240,
30 inclusive; or

31 (c) An employer, representative of an employer or employee for
32 an intentional or grossly negligent violation of NRS 179A.110.
33 Punitive damages may be awarded against an employer,
34 representative of an employer or employee whose violation of NRS
35 179A.110 is malicious.

36 2. An employer is liable to a child served by the employer for
37 damages suffered by the child as a result of ~~a sexual~~ *an* offense
38 *listed in subsection 4 of NRS 179A.190* committed against the child
39 by an employee ~~hired on or after January 1, 1988,~~ if, at the time
40 the employer hired the employee, the employee was the subject of
41 information relating to ~~sexual~~ *the* offenses for which notice was
42 available for dissemination to the employer and the employer:

43 (a) Failed, without good cause, to request notice of the
44 information pursuant to NRS 179A.180 to 179A.240, inclusive; or



1 (b) Was unable to obtain the information because the employee
2 refused to consent to the search and release of the information, and
3 the employer hired or retained the employee despite this
4 refusal.

5 The amount of damages for which an employer is liable pursuant to
6 this subsection must be reduced by the amount of damages
7 recovered by the child in an action against the employee for
8 damages sustained as a result of ~~[the sexual offense.]~~ *an offense*
9 *listed in subsection 4 of NRS 179A.190.*

10 3. An action pursuant to this section must be brought within 3
11 years after:

- 12 (a) The occurrence upon which the action is based; or
- 13 (b) The date upon which the party bringing the action became
14 aware or reasonably should have become aware of the occurrence,
15 whichever was earlier, if he was not aware of the occurrence at the
16 time of the occurrence.

17 4. This section does not limit or affect any other rights, claims
18 or causes of action arising by statute or common law.

19 **5. For the purposes of subsection 2:**

20 (a) *“Employee” does not include a volunteer or prospective*
21 *volunteer.*

22 (b) *In any civil action brought against an employer with*
23 *respect to a volunteer or prospective volunteer, the fact that the*
24 *employer did not request notice of information relating to the*
25 *offenses listed in subsection 4 of NRS 179A.190 pursuant to NRS*
26 *179A.180 to 179A.240, inclusive, must not be considered as*
27 *evidence of negligence or causation.*

28 **Sec. 14.** NRS 179A.240 is hereby amended to read as follows:

29 179A.240 A person who knowingly and willfully:

- 30 1. Uses NRS 179A.180 to 179A.240, inclusive, to obtain or
31 seek to obtain information relating to ~~[sexual]~~ *the offenses listed in*
32 *subsection 4 of NRS 179A.190* under false pretenses;
- 33 2. Disseminates or attempts to disseminate information relating
34 to ~~[sexual]~~ *the offenses listed in subsection 4 of NRS 179A.190* that
35 he knows was not received in accordance with the provisions of this
36 chapter; or
- 37 3. Disseminates or attempts to disseminate information relating
38 to ~~[sexual]~~ *the offenses listed in subsection 4 of NRS 179A.190* that
39 he knows is false, inaccurate or incomplete,
40 is guilty of a misdemeanor.

41 **Sec. 15.** NRS 179A.310 is hereby amended to read as follows:

42 179A.310 1. The revolving Account to Investigate the
43 Background of Volunteers Who Work With Children is hereby
44 created in the State General Fund.



1 2. The Director of the Department shall administer the Account
2 to Investigate the Background of Volunteers Who Work With
3 Children. The money in the Account must be expended only to pay
4 the costs of the Central Repository to process requests from
5 nonprofit agencies to determine whether a volunteer of a nonprofit
6 agency who works directly with children or a prospective volunteer
7 of the nonprofit agency who will work directly with children has
8 committed ~~[a sexual offense.]~~ *an offense listed in subsection 4 of*
9 *NRS 179A.190.* The existence of the Account to Investigate the
10 Background of Volunteers Who Work With Children does not
11 create a right in any person to receive money from the Account.

12 3. The Director of the Department may apply for and accept
13 any gift, donation, bequest, grant or other source of money. Any
14 money so received must be deposited in the Account to Investigate
15 the Background of Volunteers Who Work With Children.

16 4. The interest and income earned on money in the Account
17 from any gift, donation ~~[]~~ or bequest, after deducting any applicable
18 charges, must be credited to the Account. Money from any gift,
19 donation ~~[]~~ or bequest that remains in the Account at the end of the
20 fiscal year does not revert to the State General Fund, and the balance
21 in the Account must be carried forward to the next fiscal year.

22 5. The Director of the Department shall adopt regulations to
23 carry out the provisions of this section. The regulations must
24 include, without limitation:

25 (a) The procedure by which a person may apply for a grant of
26 money from the Account to Investigate the Background of
27 Volunteers Who Work With Children;

28 (b) The criteria that the Department will consider in determining
29 whether to award such a grant of money from the Account; and

30 (c) Procedures to distribute the money in the Account in a fair
31 and equitable manner.

32 6. The following facts must not be considered as evidence of
33 negligence or causation in any civil action brought against a
34 nonprofit agency:

35 (a) The fact that the nonprofit agency did not apply for a grant of
36 money from the Account.

37 (b) The fact that the nonprofit agency did not request that the
38 Central Repository, through the use of the Account, determine
39 whether a volunteer or prospective volunteer of the nonprofit agency
40 has committed ~~[a sexual offense.]~~ *an offense listed in subsection 4*
41 *of NRS 179A.190.*

42 **Sec. 16.** NRS 179B.250 is hereby amended to read as follows:

43 179B.250 1. The Department shall, in a manner prescribed
44 by the Director, establish within the Central Repository a program to
45 provide the public with access to certain information contained in



1 the statewide registry. The program may include, but is not limited
2 to, the use of a secure website on the Internet or other electronic
3 means of communication to provide the public with access to certain
4 information contained in the statewide registry if such information is
5 made available and disclosed in accordance with the procedures set
6 forth in this section.

7 2. Before a search of the statewide registry is conducted on
8 behalf of a requester seeking information from the program, the
9 requester must provide his name, address and telephone number and
10 the following information concerning the identity of the subject of
11 the search:

12 (a) The name of the subject of the search and at least one of the
13 following items:

- 14 (1) The social security number of the subject of the search;
- 15 (2) The identification number from a driver's license or an
16 identification card issued to the subject of the search by this state; or
- 17 (3) The date of birth of the subject of the search; or

18 (b) The name and address of the subject of the search and all of
19 the following items:

- 20 (1) The race or ethnicity of the subject of the search;
- 21 (2) The hair color and eye color of the subject of the search;
- 22 (3) The approximate height and weight of the subject of the
23 search; and
- 24 (4) The approximate age of the subject of the search.

25 After conducting a search based upon information provided
26 pursuant to paragraph (a) or (b), the Central Repository may require
27 the requester to provide additional information to confirm the
28 identity of the subject of the search. The additional information may
29 include, but is not limited to, the license number from a motor
30 vehicle frequently driven by the subject of the search, the employer
31 of the subject of the search or any information listed in paragraph
32 (a) or (b) that was not provided for the initial search.

33 3. After conducting a search of the statewide registry on behalf
34 of a requester, the Central Repository shall inform the requester that:

35 (a) No person listed in the statewide registry matches the
36 information provided by the requester concerning the identity of the
37 subject of the search;

38 (b) The requester needs to provide additional information
39 concerning the identity of the subject of the search before the
40 Central Repository may disclose the results of the search; or

41 (c) A person listed in the statewide registry matches the
42 information provided by the requester concerning the identity of the
43 subject of the search. If a search of the statewide registry results in a
44 match pursuant to this paragraph, the Central Repository:



- 1 (1) Shall inform the requester of each offense for which the
- 2 subject of the search was convicted and the date and location of
- 3 each conviction.
- 4 (2) May, through the use of a secure website on the Internet
- 5 or other electronic means of communication, provide the requester
- 6 with a photographic image of the subject of the search if such an
- 7 image is available.
- 8 (3) Shall not provide the requester with any other
- 9 information that is included in the record of registration for the
- 10 subject of the search.
- 11 4. For each inquiry to the program, the Central Repository
- 12 shall:
- 13 (a) Charge a fee to the requester;
- 14 (b) Maintain a log of the information provided by the requester
- 15 to the Central Repository and the information provided by the
- 16 Central Repository to the requester; and
- 17 (c) Inform the requester that information obtained through the
- 18 program may not be used to violate the law or the individual rights
- 19 of another person and that such misuse of information obtained
- 20 through the program may subject the requester to criminal
- 21 prosecution or civil liability for damages.
- 22 5. A person may not use information obtained through the
- 23 program as a substitute for information relating to ~~sexual~~ *the*
- 24 offenses *listed in subsection 4 of NRS 179A.190* that must be
- 25 provided by the Central Repository pursuant to NRS 179A.180 to
- 26 179A.240, inclusive, or another provision of law.
- 27 **Sec. 17.** NRS 179A.065 and 179B.120 are hereby repealed.
- 28 **Sec. 18.** This act becomes effective on July 1, 2003.

TEXT OF REPEALED SECTIONS

179A.065 “Information relating to sexual offenses” defined. “Information relating to sexual offenses” means information contained in or concerning a record of criminal history, or the records of criminal history of the United States or another state, relating in any way to a sexual offense.

179B.120 “Sexual offense” defined. “Sexual offense” has the meaning ascribed to it in NRS 179D.410.

