

SENATE BILL NO. 26—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE RECORDS, COMMUNICATIONS
AND COMPLIANCE DIVISION OF THE
DEPARTMENT OF PUBLIC SAFETY)

PREFILED NOVEMBER 8, 2024

Referred to Committee on Judiciary

SUMMARY—Revises provisions authorizing certain entities to obtain information relating to the records of criminal history of certain persons responsible for the safety and well-being of children, elderly persons or persons with disabilities. (BDR 14-248)

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 authorizing certain entities to obtain information relating to the records of criminal history of certain persons responsible for the safety and well-being of children, elderly persons or persons with disabilities; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing federal law authorizes a state to establish by statute or regulation
2 procedures that require designated qualified entities, which are businesses or
3 organizations that provide care or care placement services to children, elderly
4 persons or persons with disabilities, to contact an authorized state agency to request
5 a nationwide background check to determine whether certain persons have been
6 convicted of a crime that bears upon the fitness of the person to have responsibility
7 for the safety and well-being of children, elderly persons or persons with
8 disabilities. (34 U.S.C. §§ 40102(a)(1), 40104(5), 40104(9), 40104(10)) Existing
9 federal law requires such procedures to include certain requirements. (34 U.S.C. §
10 40102(b)) Pursuant to that federal law, existing state law establishes procedures by
11 which a qualified entity may obtain information relating to the records of criminal
12 history of employees, volunteers, persons applying to be an employee or volunteer
13 and covered individuals of the qualified entity who have access to children, elderly
14 persons or persons with disabilities. (NRS 179A.325) This bill revises those



15 procedures to allow a qualified entity to obtain such information concerning
16 independent contractors and vendors of the qualified entity.

17 Existing federal law defines the term "covered individual" to include, among
18 other persons, a person who is employed by or volunteers with, or seeks to be
19 employed by or volunteer with, a qualified entity. (34 U.S.C. § 40104(9)) This bill
20 eliminates references set forth in existing state law to an employee, volunteer or
21 person applying to be an employee or volunteer of a qualified entity that are
22 duplicative of the definition of "covered individual" set forth in existing federal
23 law.

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

1 **Section 1.** NRS 179A.325 is hereby amended to read as
2 follows:

3 179A.325 1. Before submitting a request for screening
4 pursuant to subsection 2, a qualified entity must:

5 (a) Establish an account with the Central Repository and, as part
6 of the establishment of such an account, agree to comply with all
7 applicable state and federal laws by signing an agreement approved
8 by the Central Repository.

9 (b) Provide written notification to any person being screened
10 regarding the right of the person to obtain a copy of his or her
11 background screening report, including, without limitation, any
12 records of criminal history contained in the report, to appeal the
13 results of the background screening report to challenge the accuracy
14 and completeness of any information contained therein, and to
15 obtain a determination as to the validity of such a challenge before
16 the qualified entity makes a final determination as to the fitness of
17 the person to have responsibility for the safety and well-being of
18 children, elderly persons or persons with disabilities. The
19 notification must also include instructions on how to complete the
20 appeals process.

21 (c) Obtain a signed waiver from any person being screened, on a
22 form approved by the Division, that allows the release of
23 information relating to the records of criminal history of the person
24 to the qualified entity and contains the information required by 34
25 U.S.C. § 40102(b)(1).

26 2. A qualified entity shall submit to the Central Repository any
27 request for screening ~~[an employee, volunteer, person applying to be~~
28 ~~an employee or volunteer or]~~ a covered individual, *independent*
29 *contractor or vendor* of the qualified entity who has supervised or
30 unsupervised access to children, elderly persons or persons with
31 disabilities by submitting the fingerprints of the person to the
32 Central Repository for its report on the criminal history of the
33 person and for forwarding to the Federal Bureau of Investigation for



1 its report on the criminal history of the person. Each request must be
2 voluntary and conform to the requirements established in the
3 National Child Protection Act of 1993, Public Law 103-209, as
4 amended by the Volunteers for Children Act, Public Law 105-251,
5 34 U.S.C. §§ 40101 et seq.

6 3. A request submitted pursuant to subsection 2 must be
7 accompanied by the payment of a fee to the Central Repository as
8 authorized by NRS 179A.140, plus the amount prescribed by the
9 Federal Bureau of Investigation for its report on the criminal history
10 of the person, in accordance with the provisions of 34 U.S.C. §
11 40102(e).

12 4. After a request is submitted pursuant to subsection 2, the
13 Central Repository shall provide directly to the qualified entity, as
14 authorized by the signed waiver obtained by the qualified entity
15 pursuant to subsection 1:

16 (a) Any records of criminal history of the person being screened
17 that are not otherwise confidential pursuant to statute or law. Such a
18 person may challenge the accuracy of such records of criminal
19 history only as provided in this chapter.

20 (b) Any records of criminal history of the person being screened
21 that were received from the Federal Bureau of Investigation. Any
22 records of criminal history obtained are available for qualified
23 entities to use only for the purpose of screening ~~[employees;~~
24 ~~volunteers, persons applying to be an employee or volunteer or]~~
25 covered individuals , *independent contractors or vendors* of the
26 qualified entity who have supervised or unsupervised access to
27 children, elderly persons or persons with disabilities.

28 5. The making of a determination as to the fitness of a person
29 to have responsibility for the safety and well-being of children,
30 elderly persons or persons with disabilities is the sole responsibility
31 of the qualified entity that submitted the request for screening. The
32 qualified entity shall make such a determination pursuant to the
33 procedures set forth in the VECHS program based on whether
34 the information relating to the records of criminal history of the
35 person indicates that the person has been convicted of or is subject
36 to pending criminal charges or a pending indictment for any crime
37 that bears upon his or her fitness to have responsibility for the safety
38 and well-being of children, elderly persons or persons with
39 disabilities. The provisions of this section must not be construed to
40 require the Central Repository to make such a determination on
41 behalf of any qualified entity.

42 6. A qualified entity that is required by law to apply screening
43 criteria, including, without limitation, any right to contest or request
44 an exemption from disqualification, shall apply such screening



1 criteria to any information relating to records of criminal history
2 received from the Central Repository.

3 7. If a person chooses to appeal the results of a background
4 screening report, the appeals process must meet the requirements
5 established in 34 U.S.C. § 40102(b)(2)(C).

6 8. A qualified entity is not liable for damages solely arising out
7 of the accuracy of any information included in or omitted from
8 records of criminal history authorized to be obtained pursuant to this
9 section, and the State of Nevada, any political subdivision of the
10 State or any agency, officer or employee thereof is not liable for
11 damages for providing any information relating to records of
12 criminal history requested pursuant to this section.

13 9. The Central Repository may audit any qualified entity that
14 submits a request for screening pursuant to this section to ensure
15 compliance with all applicable state and federal laws. Each qualified
16 entity shall maintain all signed waivers obtained pursuant to
17 subsection 1 for the purpose of such an audit for one audit cycle as
18 determined by the Department.

19 10. In addition to complying with the provisions of this section,
20 each qualified entity and the Central Repository shall comply with
21 all applicable provisions of 34 U.S.C. § 40102.

22 11. As used in this section:

23 (a) "Children" has the meaning ascribed to "child" in
24 NRS 432B.040.

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

27 (c) "Disability" has the meaning ascribed to it in NRS 426.068.

28 (d) "Division" means the Records, Communications and
29 Compliance Division of the Department.

30 (e) "Elderly persons" means any persons who are 60 years of
31 age or older.

32 (f) "Qualified entity" has the meaning ascribed to it in 34 U.S.C.
33 § 40104(10).

34 (g) "Record of criminal history" has the meaning ascribed to it
35 in NRS 179A.070 and also includes, unless the context otherwise
36 requires, records of criminal history obtained from the Federal
37 Bureau of Investigation.

38 (h) "VECHS program" means the Volunteer and Employee
39 Criminal History System program of the Division through which
40 information relating to the records of criminal history of a person
41 may be requested and obtained by a qualified entity.

42 **Sec. 2.** This act becomes effective upon passage and approval.

