

ASSEMBLY BILL NO. 54—ASSEMBLYMAN ANDERSON

PREFILED JANUARY 29, 2001

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to time within which prosecution for certain felonies must be commenced and certain provisions concerning genetic marker testing. (BDR 14-296)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to criminal procedure; revising the provisions relating to the time within which a prosecution for kidnapping or attempted murder must be commenced; revising certain provisions concerning genetic marker testing to refer to obtaining a “biological specimen”; providing for genetic marker testing of certain persons who reside in this state and who are convicted of certain crimes in other states; 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.** Chapter 171 of NRS is hereby amended by adding thereto a
2 new section to read as follows:
3 ***1. If, at any time during the period of limitation prescribed in NRS***
4 ***171.085 and 171.095, a victim of kidnapping or attempted murder, or a***
5 ***person authorized to act on behalf of such a victim, files with a law***
6 ***enforcement officer a written report concerning the offense, the period of***
7 ***limitation prescribed in NRS 171.085 and 171.095 is extended for 5***
8 ***years.***
9 ***2. If a written report is filed with a law enforcement officer pursuant***
10 ***to subsection 1, the law enforcement officer shall provide a copy of the***
11 ***written report to the victim or the person authorized to act on behalf of***
12 ***the victim.***
13 ***3. As used in this section, “law enforcement officer” has the***
14 ***meaning ascribed to it in NRS 171.083.***
15 **Sec. 2.** NRS 171.085 is hereby amended to read as follows:
16 171.085 Except as otherwise provided in NRS 171.083 and 171.095,
17 ***and section 1 of this act,*** an indictment for:



1 1. Theft, robbery, burglary, forgery, arson or sexual assault must be
2 found, or an information or complaint filed, within 4 years after the
3 commission of the offense.

4 2. Any felony other than murder, theft, robbery, burglary, forgery,
5 arson or sexual assault must be found, or an information or complaint filed,
6 within 3 years after the commission of the offense.

7 **Sec. 3.** NRS 171.095 is hereby amended to read as follows:
8 171.095 1. Except as otherwise provided in subsection 2 and NRS
9 171.083 **H and section 1 of this act:**

10 (a) If a felony, gross misdemeanor or misdemeanor is committed in a
11 secret manner, an indictment for the offense must be found, or an
12 information or complaint filed, within the periods of limitation prescribed
13 in NRS 171.085 and 171.090 after the discovery of the offense, unless a
14 longer period is allowed by paragraph (b) or the provisions of NRS
15 202.885.

16 (b) An indictment must be found, or an information or complaint filed,
17 for any offense constituting sexual abuse of a child, as defined in NRS
18 432B.100, before the victim of the sexual abuse is:

19 (1) Twenty-one years old if he discovers or reasonably should have
20 discovered that he was a victim of the sexual abuse by the date on which he
21 reaches that age; or

22 (2) Twenty-eight years old if he does not discover and reasonably
23 should not have discovered that he was a victim of the sexual abuse by the
24 date on which he reaches 21 years of age.

25 2. If any indictment found, or an information or complaint filed, within
26 the time prescribed in subsection 1 is defective so that no judgment can be
27 given thereon, another prosecution may be instituted for the same offense
28 within 6 months after the first is abandoned.

29 **Sec. 4.** Chapter 176 of NRS is hereby amended by adding thereto a
30 new section to read as follows:

31 *1. If the division is supervising a probationer or parolee pursuant to*
32 *an interstate compact and the probationer or parolee is or has been*
33 *convicted in another jurisdiction of violating a law that prohibits the*
34 *same or similar conduct as an offense listed in subsection 4 of NRS*
35 *176.0913, the division shall arrange for a biological specimen to be*
36 *obtained from the probationer or parolee.*

37 *2. After a biological specimen is obtained from a probationer or*
38 *parolee pursuant to this section, the division shall:*

39 *(a) Provide the biological specimen to the forensic laboratory that has*
40 *been designated by the county in which the probationer or parolee is*
41 *residing to conduct or oversee genetic marker testing for the county*
42 *pursuant to NRS 176.0917; and*

43 *(b) Submit the name, social security number, date of birth and any*
44 *other information identifying the probationer or parolee to the central*
45 *repository for Nevada records of criminal history.*

46 *3. A probationer or parolee, to the extent of his financial ability,*
47 *shall pay the sum of \$150 to the division as a fee for obtaining the*
48 *biological specimen and for conducting the analysis to determine the*
49 *genetic markers of the biological specimen. Except as otherwise provided*



1 *in subsection 4, the fee required pursuant to this subsection must be*
2 *collected from a probationer or parolee at the time the biological*
3 *specimen is obtained from the probationer or parolee.*

4 *4. A probationer or parolee may arrange to make monthly payments*
5 *of the fee required pursuant to subsection 3. If such arrangements are*
6 *made, the division shall provide a probationer or parolee with a monthly*
7 *statement that specifies the date on which the next payment is due.*

8 *5. Any unpaid balance for a fee required pursuant to subsection 3 is*
9 *a charge against the division.*

10 *6. The division shall deposit money that is collected pursuant to this*
11 *section in the fund for genetic marker testing, which is hereby created in*
12 *the state general fund. The money deposited in the fund for genetic*
13 *marker testing must be used to pay for the actual amount charged to the*
14 *division for obtaining biological specimens from probationers and*
15 *parolees, and for conducting an analysis to determine the genetic*
16 *markers of the specimens.*

17 **Sec. 5.** NRS 176.0911 is hereby amended to read as follows:

18 176.0911 As used in NRS 176.0911 to 176.0917, inclusive, *and*
19 *section 4 of this act*, unless the context otherwise requires, "CODIS"
20 means the Combined DNA Indexing System operated by the Federal
21 Bureau of Investigation.

22 **Sec. 6.** NRS 176.0913 is hereby amended to read as follows:

23 176.0913 1. If a defendant is convicted of an offense listed in
24 subsection 4, the court, at sentencing, shall order that:

25 (a) The name, social security number, date of birth and any other
26 information identifying the defendant be submitted to the central repository
27 for Nevada records of criminal history; and

28 (b) ~~{Samples of blood}~~ *A biological specimen* be obtained from the
29 defendant pursuant to the provisions of this section and that the ~~{samples}~~
30 *specimen* be used for an analysis to determine the genetic markers of the
31 ~~{blood}~~ *specimen*.

32 2. If the defendant is committed to the custody of the department of
33 prisons, the department of prisons shall arrange for the ~~{samples of blood}~~
34 *biological specimen* to be obtained from the defendant. The department of
35 prisons shall provide the ~~{samples of blood}~~ *specimen* to the forensic
36 laboratory that has been designated by the county in which the defendant
37 was convicted to conduct or oversee genetic marker testing for the county
38 pursuant to NRS 176.0917.

39 3. If the defendant is not committed to the custody of the department
40 of prisons, the division shall arrange for the ~~{samples of blood}~~ *biological*
41 *specimen* to be obtained from the defendant. The division shall provide the
42 ~~{samples of blood}~~ *specimen* to the forensic laboratory that has been
43 designated by the county in which the defendant was convicted to conduct
44 or oversee genetic marker testing for the county pursuant to NRS
45 176.0917. Any cost that is incurred to obtain ~~{the samples of blood from~~
46 ~~{the}~~ *a biological specimen from a* defendant pursuant to this subsection is
47 a charge against the county in which the defendant was convicted and must
48 be paid as provided in NRS 176.0915.



1 4. The provisions of subsection 1 apply to a defendant who is
2 convicted of: ~~any of the following offenses:~~
3 (a) A crime against a child as defined in NRS 179D.210 ; ~~†~~
4 (b) A sexual offense as defined in NRS 179D.410 ; ~~†~~
5 (c) Murder, manslaughter or any other unlawful killing pursuant to NRS
6 200.010 to 200.260, inclusive ; ~~†~~
7 (d) Mayhem pursuant to NRS 200.280 ; ~~†~~
8 (e) Administering poison or another noxious or destructive substance or
9 liquid with intent to cause death pursuant to NRS 200.390 ; ~~†~~
10 (f) Battery with intent to commit a crime pursuant to NRS 200.400 ; ~~†~~
11 (g) Battery which is committed with the use of a deadly weapon or
12 which results in substantial bodily harm pursuant to NRS 200.481 ; ~~†~~
13 (h) Abuse or neglect of an older person pursuant to NRS 200.5099 ; ~~†~~
14 (i) A second or subsequent offense for stalking pursuant to NRS
15 200.575 ; ~~†~~
16 (j) Burglary pursuant to NRS 205.060 ; ~~†~~
17 (k) Invasion of the home pursuant to NRS 205.067 ; ~~†~~
18 (l) *Kidnapping pursuant to NRS 200.310 to 200.340, inclusive; or*
19 *(m) An attempt or conspiracy to commit an offense listed in this*
20 *subsection.*

21 **Sec. 7.** NRS 176.0915 is hereby amended to read as follows:

22 176.0915 1. If the court orders that ~~samples of blood~~ *a biological*
23 *specimen* be obtained from a defendant pursuant to NRS 176.0913, the
24 court, in addition to any other penalty, shall order the defendant, to the
25 extent of his financial ability, to pay the sum of ~~\$250~~ *\$150* as a fee for
26 obtaining the ~~samples of blood~~ *specimen* and for conducting the analysis
27 to determine the genetic markers of the ~~blood~~ *specimen*. The fee:

28 (a) Must be stated separately in the judgment of the court or on the
29 docket of the court;

30 (b) Must be collected from the defendant before or at the same time that
31 any fine imposed by the court is collected from the defendant; and

32 (c) Must not be deducted from any fine imposed by the court.

33 2. All money that is collected pursuant to subsection 1 must be paid by
34 the clerk of the court to the county treasurer on or before the fifth day of
35 each month for the preceding month.

36 3. The board of county commissioners of each county shall by
37 ordinance create in the county treasury a fund to be designated as the fund
38 for genetic marker testing. The county treasurer shall deposit money that is
39 collected pursuant to subsection 2 in the fund for genetic marker testing.
40 The money must be accounted for separately within the fund.

41 4. Each month, the county treasurer shall use the money deposited in
42 the fund for genetic marker testing to pay for the actual amount charged to
43 the county for obtaining ~~samples of blood from defendants~~ *a biological*
44 *specimen from a defendant* pursuant to NRS 176.0913.

45 5. If money remains in the fund after the county treasurer makes the
46 payments required by subsection 4, the county treasurer shall pay the
47 remaining money each month to the forensic laboratory that is designated
48 by the county pursuant to NRS 176.0917 to conduct or oversee genetic



1 marker testing for the county. A forensic laboratory that receives money
2 pursuant to this subsection shall use the money to:

3 (a) Maintain and purchase equipment and supplies relating to genetic
4 marker testing, including, but not limited to, equipment and supplies
5 required by the Federal Bureau of Investigation for participation in CODIS;
6 and

7 (b) Pay for the training and continuing education, including, but not
8 limited to, the reasonable travel expenses, of employees of the forensic
9 laboratory who conduct or oversee genetic marker testing.

10 **Sec. 8.** NRS 176.0917 is hereby amended to read as follows:

11 176.0917 1. The board of county commissioners of each county shall
12 designate a forensic laboratory to conduct or oversee for the county any
13 genetic marker testing that is ordered *or arranged* pursuant to NRS
14 176.0913 ~~+~~ *or section 4 of this act.*

15 2. The forensic laboratory designated by the board of county
16 commissioners pursuant to subsection 1:

17 (a) Must be operated by this state or one of its political subdivisions;
18 and

19 (b) Must satisfy or exceed the standards for quality assurance that are
20 established by the Federal Bureau of Investigation for participation in
21 CODIS.

22 **Sec. 9.** NRS 179A.075 is hereby amended to read as follows:

23 179A.075 1. The central repository for Nevada records of criminal
24 history is hereby created within the Nevada highway patrol division of the
25 department.

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

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

30 (b) Submit the information collected to the central repository in the
31 manner recommended by the advisory committee and approved by the
32 director of the department.

33 3. Each agency of criminal justice shall submit the information relating
34 to sexual offenses and other records of criminal history that it creates or
35 issues, and any information in its possession relating to the genetic markers
36 of ~~the blood and the secretor status of the saliva~~ *a biological specimen* of
37 a person who is convicted of ~~sexual assault or any other sexual~~ *a*
38 *criminal* offense, to the division in the manner prescribed by the director of
39 the department. The information must be submitted to the division:

40 (a) Through an electronic network;

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

42 (c) In the manner prescribed by the director of the
43 department,

44 within the period prescribed by the director of the department. If an agency
45 has submitted a record regarding the arrest of a person who is later
46 determined by the agency not to be the person who committed the
47 particular crime, the agency shall, immediately upon making that
48 determination, so notify the division. The division shall delete all
49 references in the central repository relating to that particular arrest.



- 1 4. The division shall, in the manner prescribed by the director of the
2 department:
- 3 (a) Collect, maintain and arrange all information submitted to it relating
4 to:
- 5 (1) Sexual offenses and other records of criminal history; and
6 (2) The genetic markers of ~~the blood and the secretor status of the~~
7 ~~saliva~~ **a biological specimen** of a person who is convicted of ~~sexual~~
8 ~~assault or any other sexual~~ **a criminal** offense.
- 9 (b) When practicable, use a record of the personal identifying
10 information of a subject as the basis for any records maintained regarding
11 him.
- 12 (c) Upon request, provide the information that is contained in the central
13 repository to the state disaster identification team of the division of
14 emergency management of the department . ~~of motor vehicles and public~~
15 ~~safety.~~
- 16 5. The division may:
- 17 (a) Disseminate any information which is contained in the central
18 repository to any other agency of criminal justice;
- 19 (b) Enter into cooperative agreements with federal and state repositories
20 to facilitate exchanges of information that may be disseminated pursuant to
21 paragraph (a); and
- 22 (c) Request of and receive from the Federal Bureau of Investigation
23 information on the background and personal history of any person whose
24 record of fingerprints the central repository submits to the Federal Bureau
25 of Investigation and:
- 26 (1) Who has applied to any agency of the State of Nevada or any
27 political subdivision thereof for a license which it has the power to grant or
28 deny;
- 29 (2) With whom any agency of the State of Nevada or any political
30 subdivision thereof intends to enter into a relationship of employment or a
31 contract for personal services;
- 32 (3) About whom any agency of the State of Nevada or any political
33 subdivision thereof has a legitimate need to have accurate personal
34 information for the protection of the agency or the persons within its
35 jurisdiction; or
- 36 (4) For whom such information is required to be obtained pursuant to
37 NRS 449.179.
- 38 6. The central repository shall:
- 39 (a) Collect and maintain records, reports and compilations of statistical
40 data submitted by any agency pursuant to subsection 2.
- 41 (b) Tabulate and analyze all records, reports and compilations of
42 statistical data received pursuant to this section.
- 43 (c) Disseminate to federal agencies engaged in the collection of
44 statistical data relating to crime information which is contained in the
45 central repository.
- 46 (d) Investigate the criminal history of any person who:
- 47 (1) Has applied to the superintendent of public instruction for a
48 license;
- 49 (2) Has applied to a county school district for employment; or



1 (3) Is employed by a county school district,
2 and notify the superintendent of each county school district and the
3 superintendent of public instruction if the investigation of the central
4 repository indicates that the person has been convicted of a violation of
5 NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a
6 felony or any offense involving moral turpitude.
7 (e) Upon discovery, notify the superintendent of each county school
8 district by providing him with a list of all persons:
9 (1) Investigated pursuant to paragraph (d); or
10 (2) Employed by a county school district whose fingerprints were
11 sent previously to the central repository for investigation,
12 who the central repository's records indicate have been convicted of a
13 violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or
14 convicted of a felony or any offense involving moral turpitude since the
15 central repository's initial investigation. The superintendent of each county
16 school district shall determine whether further investigation or action by
17 the district is appropriate.
18 (f) Investigate the criminal history of each person who submits
19 fingerprints or has his fingerprints submitted pursuant to NRS 449.176 or
20 449.179.
21 (g) On or before July 1 of each year, prepare and present to the
22 governor a printed annual report containing the statistical data relating to
23 crime received during the preceding calendar year. Additional reports may
24 be presented to the governor throughout the year regarding specific areas
25 of crime if they are recommended by the advisory committee and approved
26 by the director of the department.
27 (h) On or before July 1 of each year, prepare and submit to the director
28 of the legislative counsel bureau, for submission to the legislature, or the
29 legislative commission when the legislature is not in regular session, a
30 report containing statistical data about domestic violence in this state.
31 (i) Identify and review the collection and processing of statistical data
32 relating to criminal justice and the delinquency of children by any agency
33 identified in subsection 2, and make recommendations for any necessary
34 changes in the manner of collecting and processing statistical data by any
35 such agency.
36 7. The central repository may:
37 (a) At the recommendation of the advisory committee and in the manner
38 prescribed by the director of the department, disseminate compilations of
39 statistical data and publish statistical reports relating to crime or the
40 delinquency of children.
41 (b) Charge a reasonable fee for any publication or special report it
42 distributes relating to data collected pursuant to this section. The central
43 repository may not collect such a fee from an agency of criminal justice,
44 any other agency dealing with crime or the delinquency of children which
45 is required to submit information pursuant to subsection 2 or the state
46 disaster identification team of the division of emergency management of
47 the department . ~~[of motor vehicles and public safety.]~~ All money collected
48 pursuant to this paragraph must be used to pay for the cost of operating the
49 central repository.



1 (c) In the manner prescribed by the director of the department, use
2 electronic means to receive and disseminate information contained in the
3 central repository that it is authorized to disseminate pursuant to the
4 provisions of this chapter.

5 8. As used in this section:

6 (a) "Advisory committee" means the committee established by the
7 director of the department pursuant to NRS 179A.078.

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

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

13 (2) The fingerprints, voiceprint, retina image and iris image of a
14 person.

15 **Sec. 10.** NRS 56.020 is hereby amended to read as follows:

16 56.020 1. Whenever it is relevant in a civil or criminal action to
17 determine the parentage or identity of any person or corpse, the court, by
18 order, may direct any party to the action and the person involved in the
19 controversy to submit to one or more ~~blood or saliva tests,~~ *tests to obtain*
20 *a biological specimen to determine the genetic markers of the specimen,*
21 to be made by qualified persons, under such restrictions and directions as
22 the court deems proper. ~~The tests may include analysis of a person's blood~~
23 ~~to determine its genetic markers and of a person's saliva to determine its~~
24 ~~secretor status.~~

25 2. Whenever a test is ordered and made, the results of the test may be
26 received in evidence. The order for the tests also may direct that the
27 testimony of the experts and of the persons so examined may be taken by
28 deposition. The opinion of any expert concerning results of ~~blood~~ *genetic*
29 tests may be weighted in accordance with evidence, if available, of the
30 statistical probability of the alleged ~~blood~~ *genetic* relationship. The court
31 shall determine how and by whom the costs of the examination must be
32 paid.

33 **Sec. 11.** The amendatory provisions of sections 1, 2 and 3 of this act
34 apply to a person who committed a kidnapping or attempted murder before
35 the effective date of this act if the applicable statute of limitations has
36 commenced but has not yet expired on the effective date of this act.

37 **Sec. 12.** The amendatory provisions of sections 4 to 10, inclusive, of
38 this act do not apply to offenses committed before the effective date of this
39 act.

40 **Sec. 13.** This act becomes effective upon passage and approval.

