

ASSEMBLY BILL NO. 331—ASSEMBLYMEN  
CONKLIN, KIRKPATRICK AND SMITH

MARCH 21, 2011

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning the use of consumer reports. (BDR 52-831)

FISCAL NOTE: Effect on Local Government: No.  
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 employment; prohibiting a person from procuring a consumer report for purposes relating to employment except under certain circumstances; revising provisions relating to the release of a consumer report that is subject to a security freeze; providing civil remedies; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Under existing law, a person who complies with the requirements of the Fair  
2 Credit Reporting Act, 15 U.S.C. §§ 1681 et seq., and chapter 598C of NRS is  
3 allowed to obtain a consumer report for purposes relating to the employment of the  
4 consumer. **Section 1** of this bill prohibits a person from procuring a consumer  
5 report for purposes of evaluating a consumer for employment, promotion,  
6 reassignment or retention as an employee unless: (1) the use of the report is  
7 required or authorized by state or federal law; (2) the person reasonably believes  
8 that the consumer has engaged in specific illegal activity which is likely to be  
9 reflected in the consumer report; or (3) the information in the report is substantially  
10 related to the evaluation of the consumer’s likely performance of the duties of the  
11 particular position for which he or she is being evaluated. **Section 1** also provides  
12 that a person who is prohibited from procuring a consumer report for purposes  
13 related to employment is also prohibited from requesting a consumer to furnish his  
14 or her consumer report to the person or to authorize a reporting agency to furnish  
15 the report for those purposes.

16 Existing law provides that if a consumer places a security freeze on his or her  
17 file maintained by a credit reporting agency, the agency is not allowed to release  
18 the consumer report without the consumer’s consent except for certain purposes,  
19 which include certain purposes relating to employment of the consumer. (NRS  
20 598C.350, 598C.380) **Section 2** of this bill revises the scope of that exception to  
21 conform with **section 1** of this bill.



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

1       **Section 1.** Chapter 598C of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3       1. *A person shall not procure a consumer report for the*  
4 *purpose of evaluating a consumer for employment, promotion,*  
5 *reassignment or retention as an employee unless:*

6       (a) *The person is required or authorized, pursuant to state or*  
7 *federal law, to use a consumer report for that purpose;*

8       (b) *The person reasonably believes that the consumer has*  
9 *engaged in specific illegal activity which is likely to be reflected in*  
10 *the consumer report; or*

11       (c) *The information contained in the consumer report is*  
12 *substantially related to the evaluation of the consumer's likely*  
13 *performance of the duties of a particular position. The*  
14 *information in the consumer report shall be deemed to be*  
15 *substantially related to such an evaluation if the duties of the*  
16 *position involve:*

17       (1) *The care, custody and handling of or responsibility for*  
18 *money or other assets;*

19       (2) *Access to confidential information;*

20       (3) *Significant managerial responsibility; or*

21       (4) *The direct exercise of law enforcement authority as an*  
22 *employee of a state or local law enforcement agency.*

23       2. *A person who is prohibited from procuring a consumer*  
24 *report pursuant to subsection 1 shall not request the consumer to*  
25 *furnish his or her consumer report to the person or to authorize a*  
26 *reporting agency to furnish the consumer report to the person.*

27       **Sec. 2.** NRS 598C.380 is hereby amended to read as follows:

28       598C.380 Notwithstanding that a security freeze has been  
29 placed in the file of a consumer, a reporting agency may release the  
30 consumer report of the consumer to:

31       1. A person with whom the consumer has an existing business  
32 relationship, or the subsidiary, affiliate or agent of that person, for  
33 any purpose relating to that business relationship.

34       2. A licensed collection agency to which an account of the  
35 consumer has been assigned for the purposes of collection.

36       3. A person with whom the consumer has an account or  
37 contract or to whom the consumer has issued a negotiable  
38 instrument, or the subsidiary, affiliate, agent, assignee or  
39 prospective assignee of that person, for purposes relating to that  
40 account, contract or negotiable instrument.



1 4. A person seeking to use information in the file of the  
2 consumer for the purposes of prescreening pursuant to the Fair  
3 Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.

4 5. A subsidiary, affiliate, agent, assignee or prospective  
5 assignee of a person to whom access has been granted pursuant to  
6 NRS 598C.350 for the purposes of facilitating the extension of  
7 credit.

8 6. A person seeking to provide the consumer with a copy of the  
9 consumer report or the credit score of the consumer upon the request  
10 of the consumer.

11 7. A person administering a credit file monitoring subscription  
12 service to which the consumer has subscribed.

13 8. A person requesting the consumer report pursuant to a court  
14 order, warrant or subpoena.

15 9. A federal, state or local governmental entity, agency or  
16 instrumentality that is acting within the scope of its authority,  
17 including, without limitation, an agency which is seeking to collect  
18 child support payments pursuant to Part D of Title IV of the Social  
19 Security Act, 42 U.S.C. §§ 651 et seq.

20 10. A person holding a license issued by the Nevada Gaming  
21 Commission pursuant to title 41 of NRS, or the subsidiary, affiliate,  
22 agent, assignee or prospective assignee of that person, for purposes  
23 relating to any activities conducted pursuant to the license.

24 11. ~~[An]~~ *Except as otherwise provided in section 1 of this act,*  
25 *an* employer, or the subsidiary, affiliate, agent, assignee or  
26 prospective assignee of that employer, for purposes of:

27 (a) Preemployment screenings relating to the consumer; or

28 (b) Decisions or investigations relating to the consumer's  
29 current or former employment with the employer.

30 **Sec. 3.** This act becomes effective on July 1, 2011.

