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FIRST REPRINT

A.B. 331

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

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 requesting or considering 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. **Sections 1 and 2.5** of this bill prohibit a person from requesting or  
5 considering a consumer report for purposes of evaluating a consumer for  
6 employment, promotion, reassignment or retention as an employee unless: (1) the  
7 use of the report is required or authorized by state or federal law; (2) the person  
8 reasonably believes that the consumer has engaged in specific activity which may  
9 constitute a violation of state or federal law and is likely to be reflected in the  
10 report; or (3) the information in the report is reasonably related to the position for  
11 which the consumer is being evaluated.

12 Existing law provides that if a consumer places a security freeze on his or her  
13 file maintained by a credit reporting agency, the agency is not allowed to release  
14 the consumer report without the consumer's consent except for certain purposes,  
15 which include certain purposes relating to employment of the consumer. (NRS  
16 598C.350, 598C.380) **Section 2** of this bill revises the scope of that exception to  
17 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       *A person may request or consider a consumer report for the*  
4 *purpose of evaluating a consumer for employment, promotion,*  
5 *reassignment or retention as an employee if:*

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

8       2. *The person reasonably believes that the consumer has*  
9 *engaged in specific activity which may constitute a violation of*  
10 *state or federal law; or*

11       3. *The information contained in the consumer report is*  
12 *reasonably related to the position for which the consumer is being*  
13 *evaluated for employment, promotion, reassignment or retention*  
14 *as an employee. The information in the consumer report shall be*  
15 *deemed to be reasonably related to such an evaluation if the duties*  
16 *of the position involve:*

17       (a) *The care, custody and handling of or responsibility for*  
18 *money, financial accounts, corporate credit or debit cards, or*  
19 *other assets;*

20       (b) *Access to trade secrets or other proprietary or confidential*  
21 *information;*

22       (c) *Managerial or supervisory responsibility;*

23       (d) *The direct exercise of law enforcement authority as an*  
24 *employee of a state or local law enforcement agency;*

25       (e) *The care, custody and handling of or responsibility for the*  
26 *personal information, as defined in NRS 603A.040, of another*  
27 *person;*

28       (f) *Access to the personal financial information of another*  
29 *person;*

30       (g) *Employment with a financial institution that is chartered*  
31 *under federal or state law; or*

32       (h) *Employment with a licensed gaming establishment, as*  
33 *defined in NRS 463.0169.*

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

35       598C.380 Notwithstanding that a security freeze has been  
36 placed in the file of a consumer, a reporting agency may release the  
37 consumer report of the consumer to:

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

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



1 3. A person with whom the consumer has an account or  
2 contract or to whom the consumer has issued a negotiable  
3 instrument, or the subsidiary, affiliate, agent, assignee or  
4 prospective assignee of that person, for purposes relating to that  
5 account, contract or negotiable instrument.

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

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

13 6. A person seeking to provide the consumer with a copy of the  
14 consumer report or the credit score of the consumer upon the request  
15 of the consumer.

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

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

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

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

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

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

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

35 **Sec. 2.5.** Chapter 613 of NRS is hereby amended by adding  
36 thereto a new section to read as follows:

37 *1. Except as otherwise provided in section 1 of this act, a*  
38 *person shall not request or consider a consumer report for the*  
39 *purpose of evaluating any other person for employment,*  
40 *promotion, reassignment or retention as an employee.*

41 *2. As used in this section, "consumer report" has the*  
42 *meaning ascribed to it in NRS 598C.060.*



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

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