

NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON A REGULATION

and

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Workshop and Public Comment Hearing for the Amendment of Regulations of the Nevada Department of Public Safety, Records and Technology Division, Records Bureau

The Nevada Department of Public Safety, Records and Technology Division, Records Bureau, will hold a Public Workshop and Public Comment Hearing beginning at **10:00 a.m. on Tuesday, February 20, 2007, at the Nevada State Library & Archives, Conference Room A, 100 Stewart Street, Carson City, Nevada.** The Public Comment Hearing will begin immediately following the Public Workshop. The purpose of the workshop and public comment hearing is to receive comments from all interested persons regarding the amendment of regulations that pertain to Chapter 179A of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. Need for and Purpose of Proposed Regulation or Amendment

The purpose of this proposed regulation amendment is to implement changes to NRS 179A.140 that were enacted as a result of the 2005 Legislative Session and to clarify the provisions under which nonprofit agencies can access the Revolving Account to Investigate the Background of Volunteers Who Work With Children that is established pursuant to NRS 179A.310.

2. Terms & Substance of the Regulations to be Amended

The full text of the proposed amendment is attached or can also be found at <http://www.nvrepository.state.nv.us/>.

3. Estimated Economic Effect of the Regulation on the Industry & Public

a. Adverse and beneficial effects;

The impact on the business community is expected to be beneficial rather than adverse. Changes to NRS 179A.140 effective 7/1/06 now enable nonprofit agencies eligible for tax exemption under 26 U.S.C. § 501(c)(3) *and* working with children under the age of 16 to receive free State and Federal fingerprint-based criminal history background checks for “volunteers, prospective volunteers, employees, and prospective employees.” Before the NRS change, eligible agencies received a free State background check (\$21.00 savings), but had to pay \$18.00 to the Federal Bureau of Investigation (FBI) for the Federal background check. Employees and prospective employees did not receive free or reduced rates for either the State or Federal background checks, as this was seen as a cost of doing business.

The changes in NRS 179A.140 also mean that *any* nonprofit 501(c)(3) agency, not just those serving children under the age of 16, can receive a free fingerprint-based State criminal history background check, a \$21.00 savings. The FBI check is available for \$24.00 for employees and \$18.00 for volunteers.

Finally, the regulation amendment proposes the repeal of Sections 179A.033, which defines a “Region,” and 179A.170, which removes the burden of determining whether or not there is money in the Revolving Account to Investigate the Background of Volunteers Who Work With Children from nonprofit agencies who request its use. Rather, it is up to the Records Bureau to keep track of the amount of money in the Revolving Account. This is expected to simplify the process of requesting to use money from the Revolving Account.

b. Immediate and long-term effects.

The immediate effect of this regulation change is expected to be an increase in the number of fingerprint-based criminal history background checks once nonprofit 501(c)(3) agencies realize they are eligible for free State and, in some cases, federal background checks.

The long-term effects are expected to be an increased usage of the Revolving Account to Investigate the Background of Volunteers Who Work With Children, and a steady increase year-to-year in the number of fingerprint-based criminal history background checks from nonprofit 501(c)(3) agencies.

4. *Statement identifying the methods used by the agency in determining impact on small businesses.*

To determine the impact on small businesses, the Records Bureau’s Fiscal Section sent an “account update” request form to all Civil Applicant agencies with current accounts. The form asked agencies to update their contact information and whether or not: (1) the agency worked with children under the age of 16, and (2) if they were nonprofit tax exempt as recognized by the Internal Revenue Service pursuant to 26 U.S.C. § 501(c)(3). From the returned surveys, the Records Bureau’s Fiscal Section was able to determine approximately how many accounts were eligible for free State background checks and how many were eligible for free State *and* Federal background checks. The Fiscal Section then calculated the estimated cost savings to businesses that were eligible for free State and/or Federal background checks by multiplying the total number of eligible agencies by the cost of the background checks, then annualizing that figure to come up with a projected annual cost savings.

Separately, the Records Bureau tried to obtain a list of the total number of nonprofit 501(c)(3) agencies registered with the Nevada Secretary of State’s Office and with

the Nevada Department of Taxation; however, the Bureau was told this information is confidential and cannot be released.

5. *Estimated cost to the agency of the proposed regulation amendment.*

While the impact to eligible nonprofit agencies is expected to be beneficial, the impact to the Records Bureau of this proposed regulation change is expected to be adverse. Before 7/1/06, nonprofit 501(c)(3) agencies serving children under the age of 16 received free State background checks for their volunteers and prospective volunteers. The Records Bureau was then reimbursed for the cost of the State background check (\$21.00/background check) from the Revolving Account to Investigate the Background of Volunteers Who Work With Children. The nonprofit agency had to pay for the Federal background check at a reduced rate of \$18.00/background check. Also prior to 7/1/06, nonprofit agencies with 501(c)(3) tax exemption status were not eligible for free State background checks if they did not also serve children under the age of 16.

However, since the change in NRS 179A.140 effective 7/1/06, now all nonprofit agencies with 501(c)(3) tax exemption status are eligible for free State background checks for volunteers *and* employees, regardless of whether or not the agency serves children under the age of 16. The Records Bureau will have to absorb the costs of the State background check within its Legislatively Approved operating budget at an estimated annual cost of \$70,074 for FY 2007. Costs for future fiscal years are expected to increase as more and more agencies learn of the law change.

The Revolving Account will now be used to pay for the costs of the *Federal* background checks for those nonprofit 501(c)(3) agencies that serve children under the age of 16 – for both volunteers *and* employees. In effect, this makes the cost of a State and Federal fingerprint-based criminal history background check *totally free* to eligible agencies. The projected subsidy to the Revolving Account is estimated at an annual cost of \$79,605 for FY 07. Costs for future fiscal years are expected to increase as more and more agencies learn of the law change.

The Records Bureau estimated these costs based upon the methodology identified above in question # 4.

6. *Description of and citation to any other regulations that this proposed amendment overlaps or duplicates.*

This proposed regulation amendment does not overlap or duplicate any other federal, state, or local governmental regulations.

7. *Citation and description of federal laws that require the proposed regulation amendment.*

There are no federal laws that require the proposed regulation amendment.

8. *If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.*

The regulation amendment does not include any provisions which are more stringent than a federal regulation that regulates the same activity.

9. *Whether the proposed regulation establishes a new fee or increases an existing fee.*

The proposed regulation amendment does not establish a new fee or increase an existing fee. The regulation amendment will result in reduced fees for eligible nonprofit agencies.

Persons wishing to comment upon the proposed action of the Department of Public Safety, Records Bureau, may appear at the scheduled workshop and public comment hearing or may address their comments, data, views, or arguments in written form to:

Nevada Department of Public Safety
Records Bureau
808 W. Nye Lane
Carson City, NV 89703
(775) 684-6265 fax

Written submissions must be received by the DPS Records Bureau on or before **February 12, 2007**. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the DPS Records Bureau may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be amended will be on file at the Nevada State Library & Archives, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended will be available at the DPS Records Bureau locations of 808 W. Nye Lane in Carson City, Nevada, and 2398 S. Boulder Highway, Henderson, Nevada, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. This does not apply to a public body subject to the Open Meeting Law.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption or incorporate therein its reason for overruling the consideration urged against its adoption (NRS 233B.064(2)).

This Notice of Workshop and Public Comment Hearing has been sent to all persons on the agency's mailing list for administrative regulations and has been posted at the following locations:

- Capitol Building, 101 N. Carson Street, Carson City, Nevada
- Legislative Building, 401 N. Carson Street, Carson City, Nevada
- Nevada State Library & Archives, 100 Stewart Street, Carson City, Nevada
- The Main Branches of the Public Libraries in the following Counties in which an office of the agency is not maintained:

Battle Mountain Branch Library (Lander County)

625 Broad Street, Battle Mountain, Nevada

Churchill County Library

553 South Maine Street, Fallon, Nevada

Douglas County Library

1625 Library Lane, Minden, Nevada

Elko County Library

720 Court Street, Elko, Nevada

Eureka Branch Library

10190 Monroe Street, Eureka, Nevada

Goldfield Public Library/Esmeralda Co.

Fourth & Crook Street, Goldfield, Nevada

Humboldt County Library

85 East 5th Street, Winnemucca, Nevada

Lincoln County Library

93 Main Street, Pioche, Nevada

Lyon County Library

20 Nevin Way, Yerington, Nevada

Mineral County Library

First & A Street, Hawthorne, Nevada

Pershing County Library

1125 Central Avenue, Lovelock, Nevada

Storey County Library

95 South R Street, Virginia City, Nevada

Tonopah Public Library (Nye County)
171 Central Street, Tonopah, Nevada

Washoe County Library
301 South Center Street, Reno, Nevada

White Pine County Library
950 Campton Street, Ely, Nevada

This Notice of Workshop and Public Comment Hearing was faxed for posting to the following location:

- Capitol Police, Grant Sawyer State Office Building, 555 W. Washington Ave., Las Vegas, NV

This Notice of Workshop and Public Comment Hearing was posted on the following website:

- <http://www.nvrepository.state.nv.us/>

We are pleased to make reasonable accommodations for members of the public who are disabled and would like to attend the workshop and public comment hearing. If special arrangements for the meeting are required, please notify Jan Halley of the DPS Records Bureau at least one working day before the meeting at (775) 684-6202, or you may fax your request to (775) 684-6265.

Date: January 11, 2007