

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 166**

Introduced by Coash, 27.

Read first time January 07, 2011

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Developmental Disabilities Services Act;  
2 to amend section 83-1217.01, Reissue Revised Statutes of  
3 Nebraska, and sections 83-1217.02 and 84-712.05, Revised  
4 Statutes Cumulative Supplement, 2010; to authorize a  
5 private preemployment screening service to conduct  
6 criminal history record information checks as prescribed;  
7 and to repeal the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 83-1217.01, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           83-1217.01 Employees of state-operated services and  
4 facilities providing developmental disabilities services shall be  
5 subject to ~~the~~ a criminal history record information check.  
6 ~~requirements of subdivision (9) of section 83-1217 and section~~  
7 ~~83-1217.02.~~

8           Sec. 2. Section 83-1217.02, Revised Statutes Cumulative  
9 Supplement, 2010, is amended to read:

10           83-1217.02 (1) Each employee subject to the criminal  
11 history record information check ~~requirements~~ requirement of  
12 subdivision (9) of section 83-1217 ~~and or~~ section 83-1217.01 ~~shall~~  
13 may be required to file a complete set of his or her legible  
14 fingerprints with the department. The department shall transmit such  
15 fingerprints to either (a) the Nebraska State Patrol which shall  
16 transmit a copy of the applicant's fingerprints to the Identification  
17 Division of the Federal Bureau of Investigation for a national  
18 criminal history record information check or (b) a private  
19 preemployment screening service for a national criminal history  
20 record information check. The private preemployment screening service  
21 national criminal history record information check shall be in lieu  
22 of the national criminal history record information check conducted  
23 by the Identification Division of the Federal Bureau of Investigation  
24 and the Nebraska criminal history record information check conducted  
25 by the Nebraska State Patrol.

1           (2)(a) The national criminal history record information  
2 check conducted by the division shall include information concerning  
3 the employee from federal repositories of such information and  
4 repositories of such information in other states if authorized by  
5 federal law. The division shall issue a report containing the results  
6 of the national criminal history record information check to the  
7 department.

8           (b) The Nebraska criminal history record information  
9 check conducted by the Nebraska State Patrol shall ~~undertake~~ include  
10 a search for Nebraska criminal history record information concerning  
11 the employee. The Nebraska State Patrol shall issue a report to the  
12 department which contains the results of the criminal history record  
13 information check conducted by the Nebraska State Patrol.

14           (3) The national criminal history record information  
15 check conducted by a private preemployment screening service shall  
16 include information concerning the employee from federal repositories  
17 of such information and repositories of such information in this  
18 state and in other states if authorized by federal law. The private  
19 preemployment screening service shall issue a report containing the  
20 results of the national criminal history record information check to  
21 the department.

22           (4) The department shall issue copies of the reports  
23 received under subsections (2) and (3) of this section to the  
24 employer listed by the employee.

25           (5) Criminal history record information subject to

1 federal or state confidentiality requirements shall remain  
2 confidential and may be released only upon ~~the~~ written authorization  
3 by the employee.

4 (6) The department, in cooperation with the Nebraska  
5 State Patrol and the private preemployment screening service utilized  
6 pursuant to this section, shall adopt and promulgate rules and  
7 regulations to carry out this section. Such rules and regulations  
8 shall provide that the decision to initiate, continue, or terminate  
9 the employment of the employee is and shall remain that of the  
10 employer.

11 Sec. 3. Section 84-712.05, Revised Statutes Cumulative  
12 Supplement, 2010, is amended to read:

13 84-712.05 The following records, unless publicly  
14 disclosed in an open court, open administrative proceeding, or open  
15 meeting or disclosed by a public entity pursuant to its duties, may  
16 be withheld from the public by the lawful custodian of the records:

17 (1) Personal information in records regarding a student,  
18 prospective student, or former student of any educational institution  
19 or exempt school that has effectuated an election not to meet state  
20 approval or accreditation requirements pursuant to section 79-1601  
21 when such records are maintained by and in the possession of a public  
22 entity, other than routine directory information specified and made  
23 public consistent with 20 U.S.C. 1232g, as such section existed on  
24 January 1, 2003;

25 (2) Medical records, other than records of births and

1 deaths and except as provided in subdivision (5) of this section, in  
2 any form concerning any person; records of elections filed under  
3 section 44-2821; and patient safety work product under the Patient  
4 Safety Improvement Act;

5 (3) Trade secrets, academic and scientific research work  
6 which is in progress and unpublished, and other proprietary or  
7 commercial information which if released would give advantage to  
8 business competitors and serve no public purpose;

9 (4) Records which represent the work product of an  
10 attorney and the public body involved which are related to  
11 preparation for litigation, labor negotiations, or claims made by or  
12 against the public body or which are confidential communications as  
13 defined in section 27-503;

14 (5) Records developed or received by law enforcement  
15 agencies and other public bodies charged with duties of investigation  
16 or examination of persons, institutions, or businesses, when the  
17 records constitute a part of the examination, investigation,  
18 intelligence information, citizen complaints or inquiries, informant  
19 identification, or strategic or tactical information used in law  
20 enforcement training, except that this subdivision shall not apply to  
21 records so developed or received relating to the presence of and  
22 amount or concentration of alcohol or drugs in any body fluid of any  
23 person;

24 (6) Appraisals or appraisal information and negotiation  
25 records concerning the purchase or sale, by a public body, of any

1 interest in real or personal property, prior to completion of the  
2 purchase or sale;

3 (7) Personal information in records regarding personnel  
4 of public bodies other than salaries and routine directory  
5 information;

6 (8) Information solely pertaining to protection of the  
7 security of public property and persons on or within public property,  
8 such as specific, unique vulnerability assessments or specific,  
9 unique response plans, either of which is intended to prevent or  
10 mitigate criminal acts the public disclosure of which would create a  
11 substantial likelihood of endangering public safety or property;  
12 computer or communications network schema, passwords, and user  
13 identification names; guard schedules; or lock combinations;

14 (9) The security standards, procedures, policies, plans,  
15 specifications, diagrams, access lists, and other security-related  
16 records of the Lottery Division of the Department of Revenue and  
17 those persons or entities with which the division has entered into  
18 contractual relationships. Nothing in this subdivision shall allow  
19 the division to withhold from the public any information relating to  
20 amounts paid persons or entities with which the division has entered  
21 into contractual relationships, amounts of prizes paid, the name of  
22 the prize winner, and the city, village, or county where the prize  
23 winner resides;

24 (10) With respect to public utilities and except as  
25 provided in sections 43-512.06 and 70-101, personally identified

1 private citizen account payment information, credit information on  
2 others supplied in confidence, and customer lists;

3 (11) Records or portions of records kept by a publicly  
4 funded library which, when examined with or without other records,  
5 reveal the identity of any library patron using the library's  
6 materials or services;

7 (12) Correspondence, memoranda, and records of telephone  
8 calls related to the performance of duties by a member of the  
9 Legislature in whatever form. The lawful custodian of the  
10 correspondence, memoranda, and records of telephone calls, upon  
11 approval of the Executive Board of the Legislative Council, shall  
12 release the correspondence, memoranda, and records of telephone calls  
13 which are not designated as sensitive or confidential in nature to  
14 any person performing an audit of the Legislature. A member's  
15 correspondence, memoranda, and records of confidential telephone  
16 calls related to the performance of his or her legislative duties  
17 shall only be released to any other person with the explicit approval  
18 of the member;

19 (13) Records or portions of records kept by public bodies  
20 which would reveal the location, character, or ownership of any known  
21 archaeological, historical, or paleontological site in Nebraska when  
22 necessary to protect the site from a reasonably held fear of theft,  
23 vandalism, or trespass. This section shall not apply to the release  
24 of information for the purpose of scholarly research, examination by  
25 other public bodies for the protection of the resource or by

1 recognized tribes, the Unmarked Human Burial Sites and Skeletal  
2 Remains Protection Act, or the federal Native American Graves  
3 Protection and Repatriation Act;

4 (14) Records or portions of records kept by public bodies  
5 which maintain collections of archaeological, historical, or  
6 paleontological significance which reveal the names and addresses of  
7 donors of such articles of archaeological, historical, or  
8 paleontological significance unless the donor approves disclosure,  
9 except as the records or portions thereof may be needed to carry out  
10 the purposes of the Unmarked Human Burial Sites and Skeletal Remains  
11 Protection Act or the federal Native American Graves Protection and  
12 Repatriation Act;

13 (15) Job application materials submitted by applicants,  
14 other than finalists, who have applied for employment by any public  
15 body as defined in section 84-1409. For purposes of this subdivision,  
16 (a) job application materials means employment applications, resumes,  
17 reference letters, and school transcripts and (b) finalist means any  
18 applicant (i) who reaches the final pool of applicants, numbering  
19 four or more, from which the successful applicant is to be selected,  
20 (ii) who is an original applicant when the final pool of applicants  
21 numbers less than four, or (iii) who is an original applicant and  
22 there are four or fewer original applicants;

23 (16) Records obtained by the Public Employees Retirement  
24 Board pursuant to section 84-1512;

25 (17) Social security numbers; credit card, charge card,



1 or debit card numbers and expiration dates; and financial account  
2 numbers supplied to state and local governments by citizens; ~~and~~

3 (18) Information exchanged between a jurisdictional  
4 utility and city pursuant to section 66-1867; and -

5 (19) Criminal history record information obtained as  
6 required under section 83-1217.02, except that such information may  
7 be released upon written authorization by the employee.

8 Sec. 4. Original section 83-1217.01, Reissue Revised  
9 Statutes of Nebraska, and sections 83-1217.02 and 84-712.05, Revised  
10 Statutes Cumulative Supplement, 2010, are repealed.