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**Minutes of the REGULATIONS WORKSHOP TO PROPOSE THE ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS PERTAINING TO CHAPTER 179A OF THE NEVADA ADMINISTRATIVE CODE AND PUBLIC HEARING meeting  
Friday, September 23, 2016**

The Notice of Workshop to Solicit Comments on Proposed Regulations and Notice of Public Meeting was called to order at 1:02 pm on Friday January 8, 2016. The staff members were present at the Gaming Control Board, 1919 College Parkway, Carson City, NV with video conferencing to the Gaming Control Board, 555 E Washington Ave, Suite 2450, Las Vegas, NV.

**STAFF MEMBERS PRESENT:**

Julie Butler – Department of Public Safety General Services Division  
Erica Souza-Llamas – Department of Public Safety General Services Division  
Katie Brady – Nevada Attorney General's Office  
Paula Ryssman – Department of Public Safety General Services Division  
Lisa Jensen – Department of Public Safety General Services Division

**OTHERS PRESENT:**

Carson City NV:  
No attendees  
Las Vegas NV:  
No attendees

**1. Call to order and introduction of General Services Division representatives**

Julie Butler:

I am calling this public hearing on proposed regulations for Nevada Administrative Code 179A to order on Friday, September 23, 2016 at 9:02 A.M. I would like to introduce the representatives of the General Services Division at this time. I am Julie Butler, Division Administrator for the General Services Division of the Nevada Department of Public Safety. To my right, Erica Souza-Llama Repository Services Manager and to my left is Deputy Attorney General, Katie Brady.

Seeing there are no participants in Carson City or Las Vegas, I was going to announce to be sure to sign-in on the roster provided, as attendees show-up, I will re-announce this.

**2. Opening Remarks**

This is a public hearing on proposed regulations for Nevada Administrative Code 179A pursuant to Assembly Bill 224 from the 2015 legislative session as it relates to biometric identifiers. The Department of Public Safety, General Services Division requested that Assemblyman O'Neill bring forth this bill on behalf of the Criminal

History Repository and statewide law enforcement as a housekeeping measure to allow Nevada to keep up with evolving technologies for the accurate identification of people. AB 224 amended NRS 179A.075 to authorize the division to submit to the FBI one or more of a person's fingerprints for the purposes of mobile identification, a complete set of fingerprints for criminal arrest booking purposes, or other biometric identifier of the person. The General Services Division is taking this opportunity to amend NAC chapter 179A in conformity with these statutory changes and to also amend other sections of this chapter as it relates to the revolving account to investigate background of volunteers who work with children. Everyone should have a copy of the notice of public meeting, agenda, notice of intent to act upon regulation small business impact statement, and proposed regulations for reference to follow along.

For this public hearing, written comments were due on or before 5:00 pm on September 16, 2016 and no extensions have been granted for the submission of additional written comments.

The purpose of the public hearing is to solicit comments from interested persons on the following general topic that may be addressed in the proposed regulations.

The Division will discuss the establishment of revisions to and the addition of new regulations pursuant to Assembly Bill 224 regarding the governance of biometric identifiers and the information and data derived from biometric identifiers, including, without limitation:

- (1) Their collection, use, safeguarding, handling, retention, storage, dissemination and destruction; and
- (2) The methods by which a person may request the removal of his or her biometric identifiers from the Central Repository and any other agency where his or her biometric identifiers have been stored.

The Division will also discuss the establishment of revisions to the regulations concerning the submission of fingerprints for the purposes of a background check of volunteers who work with children to allow for submission based on authorized federal and state authority.

At the conclusion of the public comment hearing, the Division will discuss the potential adoption of the proposed regulations, referenced as LCB File No. R019-16 and LCB File No. R011-16.

## I. PUBLIC COMMENT HEARING

3. **Public comment** – Open up for public comments. Seeing none both in the north or the south, we will move on to agenda item #4.
4. **For discussion and possible action** – The proposed regulations, referenced as LCB File No. R09-16 and LCB File No. R011-16, contain the following proposed changes:
  - a. LCB File No. R019-16 – Section 2. contains proposed regulatory language to define the term “Authorized Recipient” - The proposed regulatory language is located in the Revised Proposed Regulation of the Director of the Department of Public Safety section of the packet toward the back of the packet. Seeing no attendees in Las Vegas or Carson City to provide comments, I will move onto agenda item 4b.
  - b. LCB File No. R019-16 – Section 3. contains proposed regulatory language to define the term “Security Policy.” Seeing no attendees in Las Vegas or Carson City to provide comments, I will move onto agenda item 4c.
  - c. LCB File No. R019-16 – Section 4. provides for adoption by reference of the federal Criminal Justice Information Services Security Policy. Seeing no attendees in Las Vegas or Carson City to provide comments, I will move onto agenda item 4d.
  - d. LCB File No. R019-16 – Section 5. provides for adoption by reference of the Nevada Criminal Justice Information System Administrative Policies. Seeing no attendees in Las Vegas or Carson City to provide comments, I will move onto agenda item 4e.
  - e. LCB File No. R019-16 – Section 6. adds language to NAC 179A.020 to clarify which employment agencies would employ a “custodian of records.”

- Seeing no attendees in Las Vegas or Carson City to provide comments, I will move onto agenda item 4f.
- f. LCB File No. R019-16 – Section 7. alters the language in NAC 179A.040 to meet the regulation requirements in NRS 179A.075 for the governance of biometric identifiers specific to collecting, using, safeguarding, handling, retaining, storing, disseminating, and destroying its records of criminal history in accordance with the Security Policy, the Administrative Policies, and the Nevada Revised Statutes. Seeing no attendees in Las Vegas or Carson City to provide comments, I will move onto agenda item 4g.
- g. LCB File No. R019-16 – Section 8. adds language to NAC 179A.060 to clarify which agencies must ensure that each person who is engaged in data processing and who has access to information in the records of criminal history meets the standards established for employment as a custodian of records. It also adds language to specify that the standards are established pursuant to NAC 179A.070 and the Security Policy. In addition, it adds language requiring the agencies to instruct their personnel periodically on policies and procedures for handling records of criminal history. Seeing no attendees in Las Vegas or Carson City to provide comments, I will move onto agenda item 4h.
- h. LCB File No. R019-16 – Section 9. adds language to NAC 179A.070 to clarify which agencies must ensure that each person who is engaged in data processing and who has access to information in the records of criminal history meets the standards established for employment as a custodian of records. Seeing no attendees in Las Vegas or Carson City to provide comments, I will move onto agenda item 4i.
- i. LCB File No. R019-16 – Section 10. adds language to NAC 179A.080 to clarify which agencies must adhere to this regulation as it relates to an audit by the Director of an informational system of Nevada records of criminal history. Seeing no attendees in Las Vegas or Carson City to provide comments, I will move onto agenda item 4j.
- j. LCB File No. R019-16 – Section 11. repeals outdated language in NAC 179A.090 relating to the proper procedure for challenging the accuracy of a record of criminal history. Seeing no attendees in Las Vegas or Carson City to provide comments, I will move onto agenda item 4k.
- k. LCB File No. R019-16 – Section 12. adds language to NAC 179A.150 to clarify that a state background check of a volunteer may be made pursuant to NRS 179A.100 or an authorized federal authority. Due to new federal authority being offered, language is being repealed to be consistent with the new background check authorities. Seeing no attendees in Las Vegas or Carson City to provide comments, I will move onto agenda item 4l.
- l. LCB File No. R019-16 – Section 13. adds language to NAC 179A.160 to clarify that a state background check is authorized pursuant to NRS 179A.100 or an authorized federal authority. Due to new federal authority being offered, language is being repealed to be consistent with the new background check authorities. Seeing no attendees in Las Vegas or Carson City to provide comments, I will move onto agenda item 4m.
- m. LCB File No. R019-16 – Section 14. adds language to clarify that a grant of money from the Revolving Account to a nonprofit agency may be awarded if the agency applies for a grant of money pursuant to NAC 179A.150 and has complied with all requirement set forth in that section. Seeing no attendees in Las Vegas or Carson City to provide comments, I will move onto agenda item 4n.
- n. LCB File No. R019-16 – Section 15. repeals NAC 179A.050 due to the existence of duplicative language in NAC 179A.060. Seeing no attendees in Las Vegas or Carson City to provide comments, I will move onto agenda item 4o.
- o. LCB File No. R011-16 - Section 1. contains proposed regulatory language to define the terms “Record of criminal history” and “biometric identifier” for reference purposes. Seeing no attendees in Las Vegas or Carson City to provide comments, I will move onto agenda item 5.

5. **Public comment** – Open for comment. Seeing no attendees in Las Vegas or Carson City to provide comment, I will close public comment and move onto agenda item 6.

6. **For discussion** – The Division will discuss the potential for small business impact

The General Services Division, Central Repository determined that small business would not be impacted in any way due to the fact that one portion of the revision only impacts law enforcement agencies and the other portion

of the revisions simply clarifies the authorized federal and state authority for submissions of fingerprints for background checks on volunteers who work with children through non-profit entities which already existed.

7. **Public comment** – Opening up for public comment. Seeing no attendees in Las Vegas or Carson City to provide comment, I will close public comment and move onto the adoption meeting.

## II. ADOPTION MEETING

1. **For discussion and possible action** – The Division will discuss the public comments and may possibly take action to alter the proposed regulations referenced as LCB File No. R019-16 and LCB File No. R011-16
2. **Public comment** - Opening up for public comment. Seeing no attendees in Las Vegas or Carson City to provide comment, I will close public comment and move onto item 3 for discussion and possible action.
3. **For discussion and possible action** – The Division may act to adopt the proposed regulations, referenced as LCB File No. R019-16 and LCB File No. R011-16, with or without alterations.
4. **Public comment** – Open for public comment. Seeing no attendees in Las Vegas or Carson City to provide comment, I am hereby adopting these regulations R011-16 and R019-16.
5. **Adjournment** – We will now send our proposed regulations to the Legislative Counsel Bureau for approval. If the Legislative Commission formally approves the final draft, it will then file the regulation with the Secretary of State and the Division will then file a conformed copy with the State Library and Archives Administrator. Any members of the public may inspect the record relating to the rulemaking proceeding and obtain a copy of the regulation as finally adopted by contacting my office at (775) 684-6262.

I would like to take this opportunity to thank everyone involved in the drafting of these proposed regulations, most notably Mindy McKay, Erica Llamas, and Katie Brady. I also want to thank everyone for their patience during this long process.