

ASSEMBLY BILL NO. 238—ASSEMBLYMEN EVANS, MANENDO, GIBBONS, HUMKE,
WILLIAMS, GOLDWATER, SEGERBLOM, CHOWNING, GIUNCHIGLIANI,
ARBERRY, HETTRICK, FREEMAN AND CEGAVSKE

FEBRUARY 15, 1999

Referred to Concurrent Committees on Health and Human Services
and Ways and Means

SUMMARY—Provides for establishment and maintenance of system for collection and analysis of
information concerning birth defects and other adverse birth outcomes. (BDR 40-72)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: 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 public health; requiring the establishment and maintenance of a system for the
collection and analysis of information concerning birth defects and other adverse birth
outcomes; restricting access to and the use of information obtained by the system; and
providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 440.170 is hereby amended to read as follows:
2 440.170 1. All certificates in the custody of the state registrar are
3 open to inspection subject to the provisions of this chapter. It ~~shall be~~ **is**
4 unlawful for any employee of the state to disclose data contained in vital
5 statistics, except as authorized by this chapter or by the board.
6 2. Information in vital statistics indicating that a birth occurred out of
7 wedlock ~~shall~~ **must** not be disclosed except upon order of a court of
8 competent jurisdiction.
9 3. The board ~~may permit~~ **:**
10 **(a) Shall allow the use of data contained in vital statistics to carry out**
11 **the provisions of sections 3 to 10, inclusive, of this act; and**
12 **(b) May allow** the use of data contained in vital statistics ~~records~~ **for**
13 **other** research purposes, but without identifying the persons to whom the
14 records relate.

1 **Sec. 2.** Chapter 442 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 3 to 10, inclusive, of this act.

3 **Sec. 3.** *As used in sections 3 to 10, inclusive, of this act, unless the*
4 *context otherwise requires, the words and terms defined in sections 4, 5*
5 *and 6 of this act have the meanings ascribed to them in those sections.*

6 **Sec. 4.** *“Birth defect” means any structural or chemical abnormality*
7 *present in a child at birth.*

8 **Sec. 5.** *“Adverse birth outcome” includes stillbirths.*

9 **Sec. 6.** *“System” means the system established and maintained*
10 *pursuant to section 7 of this act.*

11 **Sec. 7. 1.** *The health division, in cooperation with the University of*
12 *Nevada School of Medicine, shall establish and maintain a statewide*
13 *system for the collection and analysis of information concerning birth*
14 *defects and other adverse birth outcomes.*

15 **2.** *The state board of health may adopt such regulations as it deems*
16 *appropriate to carry out the provisions of sections 3 to 10, inclusive, of*
17 *this act.*

18 **Sec. 8. 1.** *The chief administrative officer of each hospital and*
19 *obstetric center or his representative shall:*

20 **(a)** *Maintain and make available to the state health officer or his*
21 *representative a list of:*

22 **(1)** *Patients who are under 7 years of age and have been diagnosed*
23 *with one or more birth defects; and*

24 **(2)** *Patients discharged with adverse birth outcomes; and*

25 **(b)** *Make available to the state health officer or his representative the*
26 *records of the hospital or obstetric center regarding:*

27 **(1)** *Patients who are under 7 years of age and have been diagnosed*
28 *with one or more birth defects; and*

29 **(2)** *Patients discharged with adverse birth outcomes.*

30 **2.** *The name of a patient must remain on the list required to be*
31 *maintained by subsection 1 for at least 5 years after the patient is*
32 *discharged from the hospital or obstetric center.*

33 **3.** *The state health officer or his representative shall abstract from*
34 *the records and lists required to be maintained by this section such*
35 *information as is required by the state board of health for inclusion in*
36 *the system.*

37 **4.** *As used in this section, “hospital” has the meaning ascribed to it*
38 *in NRS 449.012.*

39 **Sec. 9. 1.** *Information obtained by the system from any source may*
40 *be used only:*

41 **(a)** *To investigate the causes of birth defects and other adverse birth*
42 *outcomes;*

1 ***(b) To determine, evaluate and develop strategies to prevent the***
2 ***occurrence of birth defects and other adverse birth outcomes;***

3 ***(c) To assist in the early detection of birth defects;***

4 ***(d) To assist in ensuring the delivery of services for children identified***
5 ***with birth defects; and***

6 ***(e) For such other purposes as may be approved by the state health***
7 ***officer or his representative.***

8 ***2. The state board of health shall adopt regulations to ensure that:***

9 ***(a) Access to information contained in the system is limited to persons***
10 ***authorized and approved by the state health officer or his representative***
11 ***who are:***

12 ***(1) Employed by the health division;***

13 ***(2) Employed by the University of Nevada School of Medicine; or***

14 ***(3) Engaged in demographic, epidemiological or other similar***
15 ***research related to health, and who agree in writing to comply with the***
16 ***provisions of this section and the regulations of the state board of health.***

17 ***(b) Any information obtained by the system that would reveal the***
18 ***identity of a patient remains confidential and is used solely for the***
19 ***purposes set forth in this section.***

20 ***3. This section does not prohibit the publishing of statistical***
21 ***compilations relating to birth defects and other adverse birth outcomes***
22 ***that do not in any manner identify individual patients or individual***
23 ***sources of information.***

24 ***Sec. 10. The health division shall maintain an accurate record of***
25 ***each person who is not employed by the health division or the University***
26 ***of Nevada School of Medicine and is given access to information in the***
27 ***system. The record must include:***

28 ***1. The name and title of the person authorizing access;***

29 ***2. The name, title and organizational affiliation of the person given***
30 ***access;***

31 ***3. The dates of access;***

32 ***4. The specific purpose for which the information is to be used; and***

33 ***5. The results of the independent research obtained by the person***
34 ***given access, based upon information in the system.***

35 ***Sec. 11. NRS 442.003 is hereby amended to read as follows:***

36 ***442.003 As used in this chapter, unless the context requires otherwise:***

37 ***1. "Advisory board" means the advisory board on maternal and child***
38 ***health.***

39 ***2. "Department" means the department of human resources.***

40 ***3. "Director" means the director of the department of human***
41 ***resources.***

42 ***4. "Health division" means the health division of the department of***
43 ***human***

resources.

1 **5. “Obstetric center” has the meaning ascribed to it in NRS**
2 **449.0155.**

3 **Sec. 12.** NRS 442.040 is hereby amended to read as follows:

4 442.040 1. Any physician, midwife, nurse, ~~{maternity home}~~
5 **obstetric center** or hospital of any nature, parent, relative or person
6 attendant on or assisting in any way whatever any infant, or the mother of
7 any infant, at childbirth, or any time within 2 weeks after childbirth,
8 knowing the condition defined in NRS 442.030 to exist, shall immediately
9 report such fact in writing to the local health officer of the county, city or
10 other political subdivision within which the infant or the mother of any
11 infant may reside.

12 2. Midwives shall immediately report conditions to some qualified
13 practitioner of medicine and thereupon withdraw from the case except as
14 they may act under the physician’s instructions.

15 3. On receipt of such report, the health officer, or the physician
16 notified by a midwife, shall immediately give to the parents or persons
17 having charge of such infant a warning of the dangers to the eye or eyes of
18 the infant, and shall, for indigent cases, provide the necessary treatment at
19 the expense of the county, city or other political subdivision.

20 **Sec. 13.** NRS 442.110 is hereby amended to read as follows:

21 442.110 Any physician, midwife, nurse, manager or person in charge
22 of ~~{a maternity home}~~ **an obstetric center** or hospital, parent, relative or
23 person attending upon or assisting at the birth of an infant who violates any
24 of the provisions of NRS 442.030 to 442.100, inclusive, shall be punished
25 by a fine of not more than \$250.

26 **Sec. 14.** NRS 442.115 is hereby amended to read as follows:

27 442.115 1. The state board of health, upon the recommendation of
28 the state health officer, shall adopt regulations governing examinations and
29 tests required for the discovery in infants of preventable inheritable
30 disorders, including tests for the presence of sickle cell anemia.

31 2. Any physician, midwife, nurse, ~~{maternity home}~~ **obstetric center** or
32 hospital of any nature ~~{attendant on}~~ **attending** or assisting in any way
33 ~~{whatever}~~ any infant, or the mother of any infant, at childbirth shall make
34 or cause to be made an examination of the infant, including standard tests,
35 to the extent required by regulations of the state board of health as **is**
36 necessary for the discovery of conditions indicating such disorders.

37 3. If the examination and tests reveal the existence of such conditions
38 in an infant, the physician, midwife, nurse, ~~{maternity home}~~ **obstetric**
39 **center** or hospital ~~{attendant on}~~ **attending** or assisting at the birth of the
40 infant shall immediately:

41 (a) Report the condition to **the state health officer or his representative,**
42 the local health officer of the county or city within which the infant or the

1 mother of the infant resides, and the local health officer of the county or
2 city in which the child is born; and

3 (b) Discuss the condition with the parent, parents or other persons
4 responsible for the care of the infant and inform them of the treatment
5 necessary for the amelioration of the condition.

6 4. An infant is exempt from examination and testing if either parent
7 files a written objection with the person or institution responsible for
8 making the examination or tests.

9 **Sec. 15.** NRS 449.720 is hereby amended to read as follows:

10 449.720 Every patient of a medical facility or facility for the
11 dependent has the right to:

12 1. Receive considerate and respectful care.

13 2. Refuse treatment to the extent permitted by law and to be informed
14 of the consequences of that refusal.

15 3. Refuse to participate in any medical experiments conducted at the
16 facility.

17 4. Retain his privacy concerning his program of medical care.

18 Discussions of a patient's care, consultation with other persons concerning
19 the patient, examinations or treatments, and all communications and
20 records concerning the patient, except as otherwise provided in NRS
21 108.640 and 449.705, *sections 3 to 10, inclusive, of this act* and chapter
22 629 of NRS, are confidential. The patient must consent to the presence of
23 any person who is not directly involved with his care during any
24 examination, consultation or treatment.

25 5. Have any reasonable request for services reasonably satisfied by the
26 facility considering its ability to do so.

27 6. Receive continuous care from the facility. The patient must be
28 informed:

29 (a) Of his appointments for treatment and the names of the persons
30 available at the facility for those treatments; and

31 (b) By his physician or an authorized representative of the physician, of
32 his need for continuing care.

33 **Sec. 16.** NRS 458.055 is hereby amended to read as follows:

34 458.055 1. To preserve the confidentiality of any information
35 concerning persons applying for or receiving any services pursuant to NRS
36 458.010 to 458.360, inclusive, the bureau may establish and enforce rules
37 governing the confidential nature, custody, use and preservation of the
38 records, files and communications filed with the bureau.

39 2. Wherever information concerning persons applying for and
40 receiving any services pursuant to NRS 458.010 to 458.360, inclusive, is
41 furnished to or held by any other government agency or a public or private
42 institution, the use of such information by the agency or institution is
43 subject to the rules established by the bureau pursuant to subsection 1.

3. Except as otherwise provided in NRS 449.705 , *sections 3 to 10, inclusive, of this act* and chapter 629 of NRS and except for purposes directly connected with the administration of NRS 458.010 to 458.360, inclusive, a person shall not disclose, use or permit to be disclosed, any confidential information concerning a person receiving services pursuant to NRS 458.010 to 458.360, inclusive.

Sec. 17. NRS 458.280 is hereby amended to read as follows:

458.280 1. Except as otherwise provided in subsection 2, NRS 449.705 , *sections 3 to 10, inclusive, of this act* and chapter 629 of NRS, the registration and other records of a treatment facility are confidential and must not be disclosed to any person not connected with the treatment facility without the consent of the patient.

2. The provisions of subsection 1 do not restrict the use of a patient's records for the purpose of research into the causes and treatment of alcoholism if such information is not published in a way that discloses the patient's name or other identifying information.

Sec. 18. NRS 629.171 is hereby amended to read as follows:

629.171 It is unlawful to disclose or to compel a person to disclose the identity of a person who was the subject of a genetic test or to disclose genetic information of that person in a manner that allows identification of the person, without first obtaining the informed consent of that person or his legal guardian pursuant to NRS 629.181, unless the information is disclosed:

1. To conduct a criminal investigation, an investigation concerning the death of a person or a criminal or juvenile proceeding;

2. To determine the parentage or identity of a person pursuant to NRS 56.020;

3. To determine the paternity of a person pursuant to NRS 126.121 or 425.384;

4. Pursuant to an order of a court of competent jurisdiction;

5. By a physician and is the genetic information of a deceased person that will assist in the medical diagnosis of persons related to the deceased person by blood;

6. To a federal, state, county or city law enforcement agency to establish the identity of a person or dead human body;

7. To determine the presence of certain inheritable preventable disorders in an infant pursuant to NRS 442.115 or a provision of federal law;

8. To carry out the provisions of sections 3 to 10, inclusive, of this act; or

~~8-1~~ 9. By an agency of criminal justice pursuant to NRS 179A.075.

1 **Sec. 19.** NRS 652.190 is hereby amended to read as follows:
2 652.190 1. A laboratory may examine specimens only at the request
3 of:
4 (a) A licensed physician;
5 (b) Any other person authorized by law to use the findings of laboratory
6 tests and examinations; or
7 (c) If the examination can be made with a testing device or kit which is
8 approved by the Food and Drug Administration for use in the home and
9 which is available to the public without a prescription, any person.
10 2. Except as otherwise provided in NRS 441A.150 and 652.193 ~~H~~
11 *and section 8 of this act*, the laboratory may report the results of the
12 examination only to the person requesting the test or procedure and to the
13 patient for whom the testing or procedure was performed. The laboratory
14 report must contain the name of the laboratory.
15 3. If a specimen is accepted by a laboratory and is referred to another
16 laboratory, the name and address of the other laboratory must be clearly
17 shown by the referring laboratory on the report to the person requesting the
18 test or procedure.
19 4. Whenever an examination is made pursuant to paragraph (c) of
20 subsection 1, the laboratory report must contain a provision which
21 recommends that the results of the examination be reviewed and
22 interpreted by a physician or other licensed provider of health care.
23 **Sec. 20.** NRS 652.193 is hereby amended to read as follows:
24 652.193 1. ~~HA~~ *Except as otherwise provided in section 8 of this act*,
25 a licensed laboratory may release the results of tests performed at the
26 laboratory regarding a patient of a rural hospital only to:
27 (a) The patient;
28 (b) The physician who ordered the tests; and
29 (c) A provider of health care who is currently treating or providing
30 assistance in the treatment of the patient.
31 2. As used in this section:
32 (a) "Provider of health care" has the meaning ascribed to it in NRS
33 629.031.
34 (b) "Rural hospital" has the meaning ascribed to it in NRS 449.0177.