

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 and makes various changes to Uniform Anatomical Gift Act. (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 ~~for 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; making various changes to the Uniform Anatomical Gift Act; 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 9, inclusive, of this act; and**

1 **(b) May allow** the use of data contained in vital statistics ~~records~~ for
2 **other** research purposes, but without identifying the persons to whom the
3 records relate.

4 **Sec. 2.** Chapter 442 of NRS is hereby amended by adding thereto the
5 provisions set forth as sections 3 to 9, inclusive, of this act.

6 **Sec. 3.** *As used in sections 3 to 9, inclusive, of this act, unless the*
7 *context otherwise requires, the words and terms defined in sections 4, 5*
8 *and 6 of this act have the meanings ascribed to them in those sections.*

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

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

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

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

18 **2.** *The state board of health shall adopt regulations to carry out the*
19 *provisions of sections 3 to 9, inclusive, of this act. The regulations must:*

20 **(a)** *Establish a procedure to inform a patient that his name will be*
21 *used for research and referrals to related services unless he requests the*
22 *exclusion of his name from the system; and*

23 **(b)** *Require the exclusion from the system of the name of a patient if*
24 *the patient or, if the patient is a minor, a parent or legal guardian of the*
25 *patient has requested in writing to exclude the name of the patient from*
26 *the system.*

27 **3.** *The provisions of sections 3 to 9, inclusive, of this act do not*
28 *authorize any prenatal genetic testing of children.*

29 **Sec. 8. 1.** *Except as otherwise provided in subsection 2, the chief*
30 *administrative officer of each hospital and obstetric center or his*
31 *representative shall:*

32 **(a)** *Prepare and make available to the state health officer or his*
33 *representative a list of:*

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

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

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

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

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

42 **2.** *The name of a patient must be excluded from the information*
43 *prepared and made available pursuant to subsection 1 if the patient or, if*

1 *the patient is a minor, a parent or legal guardian of the patient has*
2 *requested in writing to exclude the name of the patient from that*
3 *information in the manner prescribed by the state board of health*
4 *pursuant to section 7 of this act. The provisions of this subsection do not*
5 *relieve the chief administrative officer of the duty of preparing and*
6 *making available the information required by subsection 1.*

7 3. *The state health officer or his representative shall abstract from*
8 *the records and lists required to be prepared and made available*
9 *pursuant to this section such information as is required by the state*
10 *board of health for inclusion in the system.*

11 4. *As used in this section, "hospital" has the meaning ascribed to it*
12 *in NRS 449.012.*

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

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

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

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

20 (d) *To assist in ensuring the delivery of services for children identified*
21 *with birth defects.*

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

23 (a) *Access to information contained in the system is limited to persons*
24 *authorized and approved by the state health officer or his representative*
25 *who are employed by the health division or the University of Nevada*
26 *School of Medicine.*

27 (b) *Any information obtained by the system that would reveal the*
28 *identity of a patient remains confidential.*

29 (c) *Except as otherwise provided in subsection 3, information obtained*
30 *by the system is used solely for the purposes set forth in subsection 1.*

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

35 **Sec. 10.** 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 resources.

41 4. "Fetal alcohol syndrome" includes fetal alcohol effects.

42 5. "Health division" means the health division of the department of
43 human resources.

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

3 7. “Provider of health care or other services” means:

4 (a) A person who has been certified as a counselor or an administrator
5 of an alcohol and drug abuse program pursuant to chapter 458 of NRS;

6 (b) A physician or a physician’s assistant who is licensed pursuant to
7 chapter 630 of NRS and who practices in the area of obstetrics and
8 gynecology, family practice, internal medicine, pediatrics or psychiatry;

9 (c) A licensed nurse;

10 (d) A licensed psychologist;

11 (e) A licensed marriage and family therapist;

12 (f) A licensed social worker; or

13 (g) A holder of a certificate of registration as a pharmacist.

14 **Sec. 11.** NRS 442.040 is hereby amended to read as follows:

15 442.040 1. Any physician, midwife, nurse, ~~{maternity home}~~
16 ***obstetric center*** or hospital of any nature, parent, relative or person
17 ~~{attendant-on}~~ ***attending*** or assisting in any way ~~{whatever}~~ any infant, or
18 the mother of any infant, at childbirth, or any time within 2 weeks after
19 childbirth, knowing the condition defined in NRS 442.030 to exist, shall
20 immediately report such fact in writing to the local health officer of the
21 county, city or other political subdivision within which the infant or the
22 mother of any infant may reside.

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

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

31 **Sec. 12.** NRS 442.110 is hereby amended to read as follows:

32 442.110 Any physician, midwife, nurse, manager or person in charge
33 of ~~{a maternity home}~~ ***an obstetric center*** or hospital, parent, relative or
34 person attending upon or assisting at the birth of an infant who violates any
35 of the provisions of NRS 442.030 to 442.100, inclusive, shall be punished
36 by a fine of not more than \$250.

37 **Sec. 13.** NRS 442.115 is hereby amended to read as follows:

38 442.115 1. The state board of health, upon the recommendation of
39 the state health officer, shall adopt regulations governing examinations and
40 tests required for the discovery in infants of preventable or inheritable
41 disorders, including tests for the presence of sickle cell anemia.

42 2. Any physician, midwife, nurse, ~~{maternity home}~~ ***obstetric center*** or
43 hospital of any nature ~~{attendant-on}~~ ***attending*** or assisting in any way

1 ~~{whatever}~~ any infant, or the mother of any infant, at childbirth shall make
2 or cause to be made an examination of the infant, including standard tests,
3 to the extent required by regulations of the state board of health as *is*
4 necessary for the discovery of conditions indicating such disorders.

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

9 (a) Report the condition to *the state health officer or his representative*,
10 the local health officer of the county or city within which the infant or the
11 mother of the infant resides, and the local health officer of the county or
12 city in which the child is born; and

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

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

19 **Sec. 14.** NRS 449.720 is hereby amended to read as follows:

20 449.720 Every patient of a medical facility, facility for the dependent
21 or home for individual residential care has the right to:

22 1. Receive considerate and respectful care.

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

25 3. Refuse to participate in any medical experiments conducted at the
26 facility.

27 4. Retain his privacy concerning his program of medical care.
28 Discussions of a patient's care, consultation with other persons concerning
29 the patient, examinations or treatments, and all communications and
30 records concerning the patient, except as otherwise provided in NRS
31 108.640 and 449.705, *sections 3 to 9, inclusive, of this act* and chapter
32 629 of NRS, are confidential. The patient must consent to the presence of
33 any person who is not directly involved with his care during any
34 examination, consultation or treatment.

35 5. Have any reasonable request for services reasonably satisfied by the
36 facility or home considering its ability to do so.

37 6. Receive continuous care from the facility or home. The patient must
38 be informed:

39 (a) Of his appointments for treatment and the names of the persons
40 available at the facility or home for those treatments; and

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

Sec. 15. NRS 451.555 is hereby amended to read as follows:

451.555 1. Any person may:

(a) Make an anatomical gift for any of the purposes stated in subsection 1 of NRS 451.560;

(b) Limit an anatomical gift to one or more of those purposes; or

(c) Refuse to make an anatomical gift.

2. Except as otherwise provided in subsection 3, an anatomical gift may be made only by a document of gift signed by the donor. If the donor:

(a) Cannot sign, the document of gift must be signed by another person and by two witnesses, all of whom have signed at the direction and in the presence of the donor and of each other and state that it has been so signed.

(b) Is less than 18 years of age, the document of gift must also be signed by two witnesses, one of whom is a parent or guardian of the donor and consents to the donation, at the direction and in the presence of the donor and of each other and state that it has been so signed.

3. If the donor is less than 12 years of age, the document of gift must be signed by a parent or guardian of the donor, on behalf of the donor, and two witnesses at the direction and in the presence of the parent or guardian and of each other and state that it has been so signed. The document is not required to be signed by the donor.

4. If a document of gift is imprinted on a donor's driver's license or identification card, the document of gift must comply with subsection 2. Revocation, suspension, expiration or cancellation of the license or card does not invalidate the anatomical gift.

5. A document of gift may authorize a particular physician to carry out the appropriate procedures. In the absence of such authorization or if the designated physician is not available, the donee or other person authorized to accept the anatomical gift may employ or authorize any physician, technician or enucleator to carry out the appropriate procedures.

6. An anatomical gift by will takes effect upon the death of the testator, whether or not the will is probated. If, after death, the will is declared invalid for testamentary purposes, the validity of the anatomical gift is unaffected.

7. Except as otherwise provided in subsections 8 and 9, a donor may amend or revoke an anatomical gift, not made by will, only by:

(a) A signed statement;

(b) An oral statement made in the presence of two persons;

(c) Any form of communication during a terminal illness or injury addressed to a physician; or

(d) The delivery of a signed statement to a specified donee to whom a document of gift had been delivered.

1 8. Except as otherwise provided in subsection 9, a donor who is less
2 than 18 years of age may, with the consent of his parent or guardian, amend
3 or revoke an anatomical gift, not made by will, by:

- 4 (a) A signed statement;
- 5 (b) An oral statement made in the presence of two persons;
- 6 (c) Any form of communication during a terminal illness or injury
7 addressed to a physician; or
- 8 (d) The delivery of a signed statement to a specified donee to whom a
9 document of gift had been delivered.

10 9. A donor who is less than 12 years of age may not amend or revoke
11 an anatomical gift. The parent or guardian who made the gift on behalf of
12 the donor may amend or revoke an anatomical gift, not made by will, only
13 by:

- 14 (a) A signed statement;
- 15 (b) An oral statement made in the presence of two persons;
- 16 (c) Any form of communication during a terminal illness or injury
17 addressed to a physician; or
- 18 (d) The delivery of a signed statement to a specified donee to whom a
19 document of gift had been delivered.

20 10. The donor of an anatomical gift made by will may amend or revoke
21 the gift in the manner provided for amendment or revocation of wills in
22 chapter 133 of NRS or as provided in subsection 7, 8 or 9.

23 11. An anatomical gift that is not revoked by the donor before death is
24 irrevocable and does not require the consent or concurrence of any person
25 after the donor's death. *The intent of a donor to make an anatomical gift,*
26 *as evidenced by a document of gift, may not be revoked by any member*
27 *of the classes of persons set forth in subsection 1 of NRS 451.557.*

28 12. A person may refuse to make an anatomical gift of his body or part
29 by:

- 30 (a) A writing signed in the same manner as a document of gift;
- 31 (b) A statement imprinted on his driver's license or identification card;
- 32 or
- 33 (c) Any other writing used to identify him as refusing to make an
34 anatomical gift.

35 During a terminal illness or injury, the refusal may be an oral statement or
36 other form of communication.

37 13. In the absence of contrary indications by the donor, an anatomical
38 gift of a part is neither a refusal to give other parts nor a limitation on an
39 anatomical gift under NRS 451.557.

40 14. In the absence of contrary indications by the donor, a revocation or
41 amendment of an anatomical gift is not a refusal to make another
42 anatomical gift. If the donor intends a revocation to be a refusal to make an
43 anatomical gift, he shall make the refusal pursuant to subsection 12.

1 **Sec. 16.** NRS 451.560 is hereby amended to read as follows:

2 451.560 1. The following persons may become donees of anatomical
3 gifts for the purposes stated:

4 (a) A hospital, physician, dentist or procurement organization, for
5 transplantation, therapy, medical or dental education, research or
6 advancement of medical or dental science;

7 (b) An accredited medical or dental school, college or university, for
8 education, research or advancement of medical or dental science; or

9 (c) A designated person, for transplantation or therapy needed by that
10 person.

11 2. An anatomical gift may be made to a designated donee or without
12 designating a donee. If a donee is not designated or if the donee is not
13 available or rejects the anatomical gift, the anatomical gift may be accepted
14 by any hospital or procurement organization.

15 3. *In the absence of evidence that an anatomical gift has been*
16 *revoked by the donor, a document of gift must be presumed to be valid.* If
17 the donee knows of the decedent's refusal or contrary indications to make
18 an anatomical gift or that an anatomical gift by a member of a class having
19 priority to act is opposed by a member of the same class or a prior class
20 under subsection 1 of NRS 451.557, the donee shall not accept the
21 anatomical gift.

22 **Sec. 17.** NRS 451.576 is hereby amended to read as follows:

23 451.576 1. Each hospital in this state, after consultation with other
24 hospitals and procurement organizations, shall establish agreements or
25 affiliations for coordination of procurement and use of human bodies and
26 parts.

27 2. *Except as otherwise required by the specific terms of an*
28 *anatomical gift, an anatomical gift from a resident of this state must be*
29 *offered to any residents of this state in need of transplantation or therapy*
30 *and listed on a transplant list generally recognized in the medical field*
31 *before the anatomical gift may be used by another person.*

32 **Sec. 18.** NRS 458.055 is hereby amended to read as follows:

33 458.055 1. To preserve the confidentiality of any information
34 concerning persons applying for or receiving any services pursuant to NRS
35 458.010 to 458.350, inclusive, the bureau may establish and enforce rules
36 governing the confidential nature, custody, use and preservation of the
37 records, files and communications filed with the bureau.

38 2. Wherever information concerning persons applying for and
39 receiving any services pursuant to NRS 458.010 to 458.350, inclusive, is
40 furnished to or held by any other government agency or a public or private
41 institution, the use of that information by the agency or institution is subject
42 to the rules established by the bureau pursuant to subsection 1.

3. Except as otherwise provided in NRS 449.705 , *sections 3 to 9, inclusive, of this act* and chapter 629 of NRS and except for purposes directly connected with the administration of NRS 458.010 to 458.350, 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 458.350, inclusive.

Sec. 19. 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 9, 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. 20. 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 preventable or inheritable 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 9, inclusive, of this act;

or

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

1 **Sec. 21.** 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~~ *and*
11 *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 interpreted
22 by a physician or other licensed provider of health care.
23 **Sec. 22.** 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.
35 **Sec. 23.** Sections 10, 13, 18 and 20 of this act become effective at
36 12:01 a.m. on October 1, 1999.