

SENATE BILL NO. 148—COMMITTEE ON JUDICIARY

(ON BEHALF OF ADVISORY COMMISSION ON SENTENCING)

FEBRUARY 10, 1999

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to category E felonies and presentence investigations and reports. (BDR 15-231)

FISCAL NOTE: Effect on Local Government: Yes.
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 sentencing; revising the penalty for commission of a category E felony; allowing the court to require a person convicted of a category E felony to serve a term of confinement in the county jail as a condition of probation; revising the provisions relating to presentence investigations and reports; 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 193.130 is hereby amended to read as follows:
2 193.130 1. Except when a person is convicted of a category A felony,
3 and except as otherwise provided by specific statute, a person convicted of
4 a felony shall be sentenced to a minimum term and a maximum term of
5 imprisonment which must be within the limits prescribed by the applicable
6 statute, unless the statute in force at the time of commission of the felony
7 prescribed a different penalty. The minimum term of imprisonment that
8 may be imposed must not exceed 40 percent of the maximum term
9 imposed.
10 2. Except as otherwise provided by specific statute, for each felony
11 committed on or after July 1, 1995:
12 (a) A category A felony is a felony for which a sentence of death or
13 imprisonment in the state prison for life with or without the possibility of
14 parole may be imposed, as provided by specific statute.

1 (b) A category B felony is a felony for which the minimum term of
2 imprisonment in the state prison that may be imposed is not less than 1 year
3 and the maximum term of imprisonment that may be imposed is not more
4 than 20 years, as provided by specific statute.

5 (c) A category C felony is a felony for which a court shall sentence a
6 convicted person to imprisonment in the state prison for a minimum term of
7 not less than 1 year and a maximum term of not more than 5 years. In
8 addition to any other penalty, the court may impose a fine of not more than
9 \$10,000, unless a greater fine is authorized or required by statute.

10 (d) A category D felony is a felony for which a court shall sentence a
11 convicted person to imprisonment in the state prison for a minimum term of
12 not less than 1 year and a maximum term of not more than 4 years. In
13 addition to any other penalty, the court may impose a fine of not more than
14 \$5,000, unless a greater fine is authorized or required by statute.

15 (e) A category E felony is a felony for which a court shall sentence a
16 convicted person to imprisonment in the state prison for a minimum term of
17 *not less than* 1 year and a maximum term of *not more than* 4 years. Except
18 as otherwise provided in paragraph (b) of subsection 1 of NRS 176A.100,
19 upon sentencing a person who is found guilty of a category E felony, the
20 court shall suspend the execution of the sentence and grant probation to the
21 person upon such conditions as the court deems appropriate. *Such*
22 *conditions of probation may include, but are not limited to, requiring the*
23 *person to serve a term of confinement of not more than 1 year in the*
24 *county jail.* In addition to any other penalty, the court may impose a fine of
25 not more than \$5,000, unless a greater penalty is authorized or required by
26 statute.

27 **Sec. 2.** NRS 62.360 is hereby amended to read as follows:

28 62.360 1. The court shall make and keep records of all cases brought
29 before it.

30 2. The records may be opened to inspection only by order of the court
31 to persons having a legitimate interest therein except that a release without
32 a court order may be made of any:

33 (a) Records of traffic violations which are being forwarded to the
34 department of motor vehicles and public safety;

35 (b) Records which have not been sealed and *which* are required by the
36 division of parole and probation of the department of motor vehicles and
37 public safety for preparation of presentence *investigations and* reports
38 pursuant to NRS 176.135 ~~or~~ *or general investigations and reports*
39 *pursuant to section 3 of this act;*

40 (c) Information maintained in the standardized system established
41 pursuant to NRS 62.910;

42 (d) Records which have not been sealed and which are to be used,
43 pursuant to chapter 179D of NRS, by:

- 1 (1) The central repository for Nevada records of criminal history;
- 2 (2) The division of parole and probation of the department of motor
- 3 vehicles and public safety; or
- 4 (3) A person who is conducting an assessment of the risk of
- 5 recidivism of an adult or juvenile sex offender; and
- 6 (e) Information that must be collected by the division of child and
- 7 family services of the department of human resources pursuant to NRS
- 8 62.920.

9 3. The clerk of the court shall prepare and cause to be printed forms for
10 social and legal records and other papers as may be required.

11 4. Whenever the conduct of a child with respect to whom the
12 jurisdiction of the juvenile court has been invoked may be the basis of a
13 civil action, any party to the civil action may petition the court for release
14 of the child's name, and upon satisfactory showing to the court that the
15 purpose in obtaining the information is for use in a civil action brought or
16 to be brought in good faith, the court shall order the release of the child's
17 name and authorize its use in the civil action.

18 **Sec. 3.** Chapter 176 of NRS is hereby amended by adding thereto a
19 new section to read as follows:

20 ***1. If a defendant pleads guilty, guilty but mentally ill or nolo***
21 ***contendere to or is found guilty of one or more category E felonies, but***
22 ***no other felonies, the division shall not make a presentence investigation***
23 ***and report on the defendant pursuant to NRS 176.135, unless the***
24 ***division has not made a presentence investigation and report on the***
25 ***defendant pursuant to NRS 176.135 within the 5 years immediately***
26 ***preceding the date initially set for sentencing on the category E felony or***
27 ***felonies and:***

28 ***(a) The court requests a presentence investigation and report; or***
29 ***(b) The prosecuting attorney possesses evidence that would support a***
30 ***decision by the court to deny probation to the defendant pursuant to***
31 ***paragraph (b) of subsection 1 of NRS 176A.100.***

32 ***2. If the division does not make a presentence investigation and***
33 ***report on a defendant pursuant to subsection 1, the division shall, not***
34 ***later than 45 days after the date on which the defendant is sentenced,***
35 ***make a general investigation and report on the defendant that contains:***

36 ***(a) Any prior criminal record of the defendant;***
37 ***(b) Information concerning the characteristics of the defendant, the***
38 ***circumstances affecting his behavior and the circumstances of his***
39 ***offense that may be helpful to persons responsible for the supervision or***
40 ***correctional treatment of the defendant;***
41 ***(c) Information concerning the effect that the offense committed by***
42 ***the defendant has had upon the victim, including, without limitation, any***
43 ***physical or psychological harm or financial loss suffered by the victim, to***

1 *the extent that such information is available from the victim or other*
2 *sources, but the provisions of this paragraph do not require any*
3 *particular examination or testing of the victim, and the extent of any*
4 *investigation or examination and the extent of the information included*
5 *in the report is solely at the discretion of the division;*

6 *(d) Data or information concerning reports and investigations thereof*
7 *made pursuant to chapter 432B of NRS that relate to the defendant and*
8 *are made available pursuant to NRS 432B.290; and*

9 *(e) Any other information that the division believes may be helpful to*
10 *persons responsible for the supervision or correctional treatment of the*
11 *defendant.*

12 **Sec. 4.** NRS 176.133 is hereby amended to read as follows:

13 176.133 As used in NRS 176.133 to 176.159, inclusive, *and section 3*
14 *of this act*, unless the context otherwise requires:

15 1. “Person professionally qualified to conduct psychosexual
16 evaluations” means a person who has received training in conducting
17 psychosexual evaluations and is:

18 (a) A psychiatrist licensed to practice medicine in this state and certified
19 by the American Board of Psychiatry and Neurology;

20 (b) A psychologist licensed to practice in this state;

21 (c) A social worker holding a master’s degree in social work and
22 licensed in this state as a clinical social worker;

23 (d) A registered nurse holding a master’s degree in the field of
24 psychiatric nursing and licensed to practice professional nursing in this
25 state; or

26 (e) A marriage and family therapist licensed in this state pursuant to
27 chapter 641A of NRS.

28 2. “Psychosexual evaluation” means an evaluation conducted pursuant
29 to NRS 176.139.

30 3. “Sexual offense” means:

31 (a) Sexual assault pursuant to NRS 200.366;

32 (b) Statutory sexual seduction pursuant to NRS 200.368, if punished as
33 a felony;

34 (c) Battery with intent to commit sexual assault pursuant to NRS
35 200.400;

36 (d) Abuse of a child pursuant to NRS 200.508, if the abuse involved
37 sexual abuse or sexual exploitation and is punished as a felony;

38 (e) An offense involving pornography and a minor pursuant to NRS
39 200.710 to 200.730, inclusive;

40 (f) Incest pursuant to NRS 201.180;

41 (g) Solicitation of a minor to engage in acts constituting the infamous
42 crime against nature pursuant to NRS 201.195, if punished as a felony;

1 (h) Open or gross lewdness pursuant to NRS 201.210, if punished as a
2 felony;

3 (i) Indecent or obscene exposure pursuant to NRS 201.220, if punished
4 as a felony;

5 (j) Lewdness with a child pursuant to NRS 201.230;

6 (k) Sexual penetration of a dead human body pursuant to NRS 201.450;

7 (l) Annoyance or molestation of a minor pursuant to NRS 207.260, if
8 punished as a felony;

9 (m) An attempt to commit an offense listed in paragraphs (a) to (l),
10 inclusive, if punished as a felony; or

11 (n) An offense that is determined to be sexually motivated pursuant to
12 NRS 175.547 or 207.193.

13 **Sec. 5.** NRS 176.135 is hereby amended to read as follows:

14 176.135 1. Except as otherwise provided in this section ~~§~~ **and**
15 **section 3 of this act**, the division shall make a presentence investigation
16 and report to the court on each defendant who pleads guilty, guilty but
17 mentally ill or nolo contendere to or is found guilty of a felony.

18 2. If a defendant is convicted of a felony that is a sexual offense, the
19 presentence investigation and report must be made before the imposition of
20 sentence or the granting of probation and must include a psychosexual
21 evaluation of the defendant.

22 3. If a defendant is convicted of a felony other than a sexual offense,
23 the presentence investigation and report must be made before the
24 imposition of sentence or the granting of probation unless:

25 (a) A sentence is fixed by a jury; or

26 (b) Such an investigation and report on the defendant has been made by
27 the division within the 5 years immediately preceding the date initially set
28 for sentencing on the most recent offense.

29 4. Upon request of the court, the division shall make presentence
30 investigations and reports on defendants who plead guilty, guilty but
31 mentally ill or nolo contendere to or are found guilty of gross
32 misdemeanors.

33 **Sec. 6.** NRS 176.145 is hereby amended to read as follows:

34 176.145 1. The report of ~~the~~ **any** presentence investigation must
35 contain:

36 (a) Any prior criminal record of the defendant;

37 (b) ~~{Such information about his characteristics,}~~ **Information**
38 **concerning the characteristics of the defendant**, his financial condition,
39 the circumstances affecting his behavior and the circumstances of ~~the~~
40 ~~offense, as}~~ **his offense that** may be helpful in imposing sentence, in
41 granting probation or in the correctional treatment of the defendant;

42 (c) Information concerning the effect that the ~~crime~~ **offense** committed
43 by the defendant has had upon the victim, including, ~~{but not limited to,}~~

1 *without limitation*, any physical or psychological harm or financial loss
2 suffered by the victim, to the extent that such information is available from
3 the victim or other sources, but the provisions of this ~~{subsection}~~
4 *paragraph* do not require any particular examination or testing of the
5 victim, and the extent of any investigation or examination is solely at the
6 discretion of the court or *the* division and the extent of the information to
7 be included in the report is solely at the discretion of the division;

8 (d) Information concerning whether the defendant has an obligation for
9 the support of a child, and if so, whether he is in arrears in payment on that
10 obligation;

11 (e) Data or information concerning reports and investigations thereof
12 made pursuant to chapter 432B of NRS that relate to the defendant and are
13 made available pursuant to NRS 432B.290;

14 (f) The results of the evaluation of the defendant conducted pursuant to
15 NRS 484.3796, if *such* an evaluation is required pursuant to that section;

16 (g) A recommendation of a minimum term and a maximum term of
17 imprisonment or other term of imprisonment authorized by statute, or a
18 fine, or both;

19 (h) A recommendation, if the division deems it appropriate, that the
20 defendant undergo a program of regimental discipline pursuant to NRS
21 176A.780;

22 (i) A written report of the results of a psychosexual evaluation of the
23 defendant, if the defendant is convicted of a sexual offense; and

24 (j) Such other information as may be required by the court.

25 2. The division may include in the report ~~{such}~~ *any* additional
26 information ~~{as}~~ *that* it believes ~~{will}~~ *may* be helpful in imposing a
27 sentence, in granting probation or in correctional treatment.

28 **Sec. 7.** NRS 176.156 is hereby amended to read as follows:

29 176.156 1. The division shall disclose to the ~~{district}~~ *prosecuting*
30 attorney, the counsel for the defendant and the defendant the factual content
31 of the report of ~~{the}~~ :

32 (a) *Any* presentence investigation *made pursuant to NRS 176.135* and
33 the recommendations of the division . ~~{and}~~

34 (b) *Any general investigation made pursuant to section 3 of*
35 *this act.*

36 *The division shall* afford an opportunity to each party to object to factual
37 errors *in any such report* and *to* comment on ~~{the}~~ *any* recommendations.

38 2. Unless otherwise ordered by a court, upon request, the division shall
39 disclose the content of a report of a presentence investigation *or general*
40 *investigation* to a law enforcement agency of this state or a political
41 subdivision thereof and to a law enforcement agency of the Federal
42 Government for the limited purpose of performing their duties, including,

1 ~~{but not limited to,}~~ **without limitation**, conducting hearings that are public
2 in nature.

3 3. Unless otherwise ordered by a court, upon request, the division shall
4 disclose the content of a report of a presentence investigation **or general**
5 **investigation** to the mental hygiene and mental retardation division of the
6 department of human resources for the limited purpose of performing its
7 duties, including, without limitation, evaluating **and providing any report**
8 **or information to the division concerning** the mental health of:

9 (a) A sex offender as defined in NRS 213.107; or

10 (b) An offender who has been determined to be mentally ill . ~~{~~
11 ~~to provide any report or information to the division.}~~

12 4. Unless otherwise ordered by a court, upon request, the division shall
13 disclose the content of a report of a presentence investigation **or general**
14 **investigation** to the state gaming control board for the limited purpose of
15 performing its duties in the administration of the provisions of chapters 462
16 to 467, inclusive, of NRS.

17 5. Except for the disclosures required by subsections 1 to 4, inclusive,
18 ~~{the}~~ a report **of a presentence investigation or general investigation** and
19 ~~{its}~~ the sources of information **for such a report** are confidential and must
20 not be made a part of any public record.

21 **Sec. 8.** NRS 176.159 is hereby amended to read as follows:

22 176.159 1. Except as otherwise provided in subsection 2, when a
23 court imposes a sentence of imprisonment in the state prison or revokes a
24 program of probation and orders a sentence of imprisonment to the state
25 prison to be executed, the court shall cause a copy of the report of the
26 presentence investigation to be delivered to the director of the department
27 of prisons, if such a report was made. The report must be delivered when
28 the judgment of imprisonment is delivered pursuant to NRS 176.335.

29 2. If a ~~{report of the}~~ presentence investigation ~~{was}~~ **and report were**
30 not required ~~{because of the exception provided in}~~ **pursuant to** paragraph
31 (b) of subsection 3 of NRS 176.135 ~~{}~~ **or pursuant to subsection 1 of**
32 **section 3 of this act**, the court shall cause a copy of the previous report of
33 the presentence investigation **or a copy of the report of the general**
34 **investigation, as appropriate**, to be delivered to the director of the
35 department of prisons in the manner provided pursuant to subsection 1.

36 **Sec. 9.** NRS 176.335 is hereby amended to read as follows:

37 176.335 1. If the judgment is for imprisonment in the state prison, the
38 sheriff of the county shall, on receipt of the triplicate certified copies
39 thereof, immediately notify the director of the department of prisons and
40 the director shall, without delay, send some authorized person to the county
41 where the prisoner is held for commitment to receive the prisoner.

42 2. When such an authorized person presents to the sheriff holding the
43 prisoner his order for the delivery of the prisoner, the sheriff shall deliver to

1 the authorized person two of the certified copies of the judgment and a
2 copy of the report of the presentence investigation *or general investigation,*
3 *as appropriate,* if required pursuant to NRS 176.159, and take from the
4 person a receipt for the prisoner, and the sheriff shall make return upon his
5 certified copy of the judgment, showing his proceedings thereunder, and
6 both that copy with the return affixed thereto and the receipt from the
7 authorized person must be filed with the county clerk.

8 3. The term of imprisonment designated in the judgment must begin on
9 the date of sentence of the prisoner by the court.

10 4. Upon the expiration of the term of imprisonment of the prisoner, or
11 the termination thereof for any legal reason, the director of the department
12 of prisons shall return one of his certified copies of the judgment to the
13 county clerk of the county from whence it was issued, with a brief report of
14 his proceedings thereunder endorsed thereon, and the endorsed copy must
15 be filed with the county clerk. The return must show the cause of the
16 termination of such imprisonment, whether by death, legal discharge or
17 otherwise.

18 **Sec. 10.** NRS 176A.100 is hereby amended to read as follows:

19 176A.100 1. Except as otherwise provided in this section and NRS
20 176A.110 and 176A.120, if a person is found guilty in a district court upon
21 verdict or plea of:

22 (a) Murder of the first or second degree, kidnapping in the first degree,
23 sexual assault, attempted sexual assault of a child who is less than 16 years
24 of age, an offense for which the suspension of sentence or the granting of
25 probation is expressly forbidden, or if the person is found to be a habitual
26 criminal pursuant to NRS 207.010, a habitually fraudulent felon pursuant to
27 NRS 207.014 or a habitual felon pursuant to NRS 207.012, the court shall
28 not suspend the execution of the sentence imposed or grant probation to the
29 person.

30 (b) A category E felony, except as otherwise provided in this paragraph,
31 the court shall suspend the execution of the sentence imposed and grant
32 probation to the person. The court may, as it deems advisable, decide not to
33 suspend the execution of the sentence imposed and grant probation to the
34 person if, at the time the crime was committed, the person:

35 (1) Was serving a term of probation, whether in this state or
36 elsewhere, for a felony conviction;

37 (2) Had previously had his probation revoked, whether in this state or
38 elsewhere, for a felony conviction; or

39 (3) Had previously been two times convicted, whether in this state or
40 elsewhere, of a crime that under the laws of the situs of the crime or of this
41 state would amount to a felony.

42 If the person denies the existence of a previous conviction, the court shall
43 determine the issue of the previous conviction after hearing all relevant

1 evidence presented on the issue by the prosecution and the person. At such
2 a hearing, the person may not challenge the validity of a previous
3 conviction. For the purposes of this paragraph, a certified copy of a felony
4 conviction is prima facie evidence of conviction of a prior felony.

5 (c) Another felony, a gross misdemeanor or a misdemeanor, the court
6 may suspend the execution of the sentence imposed and grant probation as
7 the court deems advisable.

8 2. In determining whether to ~~{place}~~ *grant probation to* a person, ~~{on~~
9 ~~probation,}~~ the court shall not consider whether the person has the financial
10 ability to participate in a program of probation secured by a surety bond
11 established pursuant to NRS 176A.300 to 176A.370, inclusive.

12 3. The court shall consider the standards adopted pursuant to NRS
13 213.10988 and the recommendation of the chief parole and probation
14 officer, if any, in determining whether to grant probation ~~{}~~ *to a person.*

15 4. If the court determines that a ~~{defendant}~~ *person* is otherwise
16 eligible for probation but requires more supervision than would normally
17 be provided to a person granted probation, the court may, in lieu of
18 sentencing him to a term of imprisonment, grant him probation pursuant to
19 the program of intensive supervision established pursuant to NRS
20 176A.440.

21 5. ~~{The court shall not, except}~~ *Except* as otherwise provided in this
22 subsection, ~~{grant probation to}~~ *if* a person *is* convicted of a felony *and the*
23 *division is required to make a presentence investigation and report to the*
24 *court pursuant to NRS 176.135, the court shall not grant probation to the*
25 *person* until the court receives ~~{a written}~~ *the* report *of the presentence*
26 *investigation* from the chief parole and probation officer. The chief parole
27 and probation officer shall submit ~~{a written}~~ *the* report *of the presentence*
28 *investigation to the court* not later than 45 days ~~{following}~~ *after receiving*
29 a request for a ~~{probation}~~ *presentence* investigation from the county clerk .
30 ~~{, but if a}~~ *If the* report *of the presentence investigation* is not submitted by
31 the chief parole and probation officer within 45 days , the ~~{district judge}~~
32 *court* may grant probation without the ~~{written}~~ report.

33 6. If the court determines that a ~~{defendant}~~ *person* is otherwise
34 eligible for probation, the court shall , when determining the conditions of
35 that probation , consider the imposition of such conditions as would
36 facilitate timely payments by the ~~{defendant}~~ *person* of his obligation, if
37 any, for the support of a child and the payment of any such obligation
38 which is in arrears.

39 **Sec. 11.** NRS 432B.290 is hereby amended to read as follows:

40 432B.290 1. Except as otherwise provided in subsection 2 or 5, data
41 or information concerning reports and investigations thereof made pursuant
42 to this chapter may be made available only to:

- 1 (a) A physician who has before him a child who he reasonably believes
2 may have been abused or neglected;
- 3 (b) A person authorized to place a child in protective custody, if he has
4 before him a child who he reasonably believes may have been abused or
5 neglected and he requires the information to determine whether to place the
6 child in protective custody;
- 7 (c) An agency, including, without limitation, an agency in another
8 jurisdiction, responsible for or authorized to undertake the care, treatment
9 or supervision of:
 - 10 (1) The child; or
 - 11 (2) The person responsible for the welfare of the child;
- 12 (d) A district attorney or other law enforcement officer who requires the
13 information in connection with an investigation or prosecution of abuse or
14 neglect of a child;
- 15 (e) A court, for in camera inspection only, unless the court determines
16 that public disclosure of the information is necessary for the determination
17 of an issue before it;
- 18 (f) A person engaged in bona fide research or an audit, but information
19 identifying the subjects of a report must not be made available to him;
- 20 (g) The guardian ad litem of the child;
- 21 (h) A grand jury upon its determination that access to these records is
22 necessary in the conduct of its official business;
- 23 (i) An agency which provides protective services or which is authorized
24 to receive, investigate and evaluate reports of abuse or neglect of a child;
- 25 (j) A person who or an organization that has entered into a written
26 agreement with an agency which provides protective services to provide
27 assessments or services and that has been trained to make such assessments
28 or provide such services;
- 29 (k) A team organized for the protection of a child pursuant to NRS
30 432B.350;
- 31 (l) A team organized pursuant to NRS 432B.405 to review the death of a
32 child;
- 33 (m) A parent or legal guardian of the child, if the identity of the person
34 responsible for reporting the alleged abuse or neglect of the child to a
35 public agency is kept confidential;
- 36 (n) The person named in the report as allegedly being abused or
37 neglected, if he is not a minor or otherwise legally incompetent;
- 38 (o) An agency that is authorized by law to license foster homes or
39 facilities for children or to investigate persons applying for approval to
40 adopt a child, if the agency has before it an application for that license or is
41 investigating an applicant to adopt a child;
- 42 (p) Upon written consent of the parent, any officer of this state or a city
43 or county thereof or legislator authorized by the agency or department

1 having jurisdiction or by the legislature, acting within its jurisdiction, to
2 investigate the activities or programs of an agency that provides protective
3 services if:

4 (1) The identity of the person making the report is kept confidential;
5 and

6 (2) The officer, legislator or a member of his family is not the person
7 alleged to have committed the abuse or neglect;

8 (q) The division of parole and probation of the department of motor
9 vehicles and public safety for use pursuant to NRS 176.135 in making a
10 presentence investigation and report to the district court ~~or~~ *pursuant to*
11 *section 3 of this act in making a general investigation and report; or*

12 (r) Any person who is required pursuant to NRS 432B.220 to make a
13 report to an agency which provides protective services or to a law
14 enforcement agency.

15 2. Except as otherwise provided in subsection 3, data or information
16 concerning reports and investigations thereof made pursuant to this chapter
17 may be made available to any member of the general public if the child
18 who is the subject of the report dies or is critically injured as a result of
19 alleged abuse or neglect, except that the data or information which may be
20 disclosed is limited to:

21 (a) The fact that a report of abuse or neglect has been made and, if
22 appropriate, a factual description of the contents of the report;

23 (b) Whether an investigation has been initiated pursuant to NRS
24 432B.260, and the result of a completed investigation; and

25 (c) Such other information authorized for disclosure by a court pursuant
26 to subsection 4.

27 3. An agency which provides protective services shall not disclose data
28 or information pursuant to subsection 2 if the agency determines that the
29 disclosure is not in the best interests of the child or if disclosure of the
30 information would adversely affect any pending investigation concerning
31 the report.

32 4. Upon petition, a court of competent jurisdiction may authorize the
33 disclosure of additional information to the public pursuant to subsection 2
34 if good cause is shown by the petitioner for the disclosure of the additional
35 information.

36 5. An agency investigating a report of the abuse or neglect of a child
37 shall, upon request, provide to a person named in the report as allegedly
38 causing the abuse or neglect of the child:

39 (a) A copy of:

40 (1) Any statement made in writing to an investigator for the agency by
41 the person named in the report as allegedly causing the abuse or neglect of
42 the child; or

1 (2) Any recording made by the agency of any statement made orally
2 to an investigator for the agency by the person named in the report as
3 allegedly causing the abuse or neglect of the child; or

4 (b) A written summary of the allegations made against the person who is
5 named in the report as allegedly causing the abuse or neglect of the child.
6 The summary must not identify the person responsible for reporting the
7 alleged abuse or neglect.

8 6. Any person, except for:

9 (a) The subject of a report;

10 (b) A district attorney or other law enforcement officer initiating legal
11 proceedings; or

12 (c) An employee of the division of parole and probation of the
13 department of motor vehicles and public safety making a presentence
14 investigation and report to the district court pursuant to NRS 176.135 ~~or~~ **or**
15 ***making a general investigation and report pursuant to section 3 of this***
16 ***act,***

17 who is given access, pursuant to subsection 1 or 2, to information
18 identifying the subjects of a report **and** who makes this information public
19 is guilty of a misdemeanor.

20 7. The division of child and family services shall adopt regulations to
21 carry out the provisions of this section.

22 **Sec. 12.** NRS 432B.290 is hereby amended to read as follows:

23 432B.290 1. Except as otherwise provided in subsection 2, data or
24 information concerning reports and investigations thereof made pursuant to
25 this chapter may be made available only to:

26 (a) A physician who has before him a child who he reasonably believes
27 may have been abused or neglected;

28 (b) A person authorized to place a child in protective custody, if he has
29 before him a child who he reasonably believes may have been abused or
30 neglected and he requires the information to determine whether to place the
31 child in protective custody;

32 (c) An agency, including, without limitation, an agency in another
33 jurisdiction, responsible for or authorized to undertake the care, treatment
34 or supervision of:

35 (1) The child; or

36 (2) The person responsible for the welfare of the child;

37 (d) A district attorney or other law enforcement officer who requires the
38 information in connection with an investigation or prosecution of abuse or
39 neglect of a child;

40 (e) A court, for in camera inspection only, unless the court determines
41 that public disclosure of the information is necessary for the determination
42 of an issue before it;

1 (f) A person engaged in bona fide research or an audit, but information
2 identifying the subjects of a report must not be made available to him;

3 (g) The guardian ad litem of the child;

4 (h) A grand jury upon its determination that access to these records is
5 necessary in the conduct of its official business;

6 (i) An agency which provides protective services or which is authorized
7 to receive, investigate and evaluate reports of abuse or neglect of a child;

8 (j) A team organized for the protection of a child pursuant to NRS
9 432B.350;

10 (k) A parent or legal guardian of the child, if the identity of the person
11 responsible for reporting the alleged abuse or neglect of the child to a
12 public agency is kept confidential;

13 (l) The person named in the report as allegedly being abused or
14 neglected, if he is not a minor or otherwise legally incompetent;

15 (m) An agency that is authorized by law to license foster homes or
16 facilities for children or to investigate persons applying for approval to
17 adopt a child, if the agency has before it an application for that license or is
18 investigating an applicant to adopt a child;

19 (n) Upon written consent of the parent, any officer of this state or a city
20 or county thereof or legislator authorized, by the agency or department
21 having jurisdiction or by the legislature, acting within its jurisdiction, to
22 investigate the activities or programs of an agency that provides protective
23 services if:

24 (1) The identity of the person making the report is kept confidential;
25 and

26 (2) The officer, legislator or a member of his family is not the person
27 alleged to have committed the abuse or neglect; or

28 (o) The division of parole and probation of the department of motor
29 vehicles and public safety for use pursuant to NRS 176.135 in making a
30 presentence investigation and report to the district court ~~or~~ **or pursuant to**
31 **section 3 of this act in making a general investigation and report.**

32 2. An agency investigating a report of the abuse or neglect of a child
33 shall, upon request, provide to a person named in the report as allegedly
34 causing the abuse or neglect of the child:

35 (a) A copy of:

36 (1) Any statement made in writing to an investigator for the agency by
37 the person named in the report as allegedly causing the abuse or neglect of
38 the child; or

39 (2) Any recording made by the agency of any statement made orally
40 to an investigator for the agency by the person named in the report as
41 allegedly causing the abuse or neglect of the child; or

42 (b) A written summary of the allegations made against the person who is
43 named in the report as allegedly causing the abuse or neglect of the child.

1 The summary must not identify the person responsible for reporting the
2 alleged abuse or neglect.

3 3. Any person, except for:

4 (a) The subject of a report;

5 (b) A district attorney or other law enforcement officer initiating legal
6 proceedings; or

7 (c) An employee of the division of parole and probation of the
8 department of motor vehicles and public safety making a presentence
9 investigation and report to the district court pursuant to NRS 176.135 ~~§~~ **or**
10 ***making a general investigation and report pursuant to section 3 of this***
11 ***act,***

12 who is given access, pursuant to subsection 1, to information identifying the
13 subjects of a report ***and*** who makes this information public is guilty of a
14 misdemeanor.

15 4. The division of child and family services shall adopt regulations to
16 carry out the provisions of this section.

17 **Sec. 13.** The provisions of subsection 1 of NRS 354.599 do not apply
18 to any additional expenses of a local government that are related to the
19 provisions of this act.

20 **Sec. 14.** The amendatory provisions of this act do not apply to
21 offenses committed before October 1, 1999.

22 **Sec. 15.** 1. This section and sections 1 to 11, inclusive, and 13 and
23 14 of this act become effective on October 1, 1999.

24 2. Section 11 of this act expires by limitation on June 30, 2001.

25 3. ***Section 12 of this act becomes effective on July 1, 2001.***