

SENATE BILL NO. 205—COMMITTEE ON HUMAN RESOURCES  
AND FACILITIES

(ON BEHALF OF NEVADA ASSOCIATION OF SCHOOL BOARDS)

FEBRUARY 20, 2001

Referred to Committee on Human Resources and Facilities

SUMMARY—Authorizes consideration of certain criminal proceedings and sealed records for purpose of licensing, employment or discipline of school personnel. (BDR 34-383)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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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 education; authorizing the state board of education, the superintendent of public instruction and the boards of trustees of school districts to consider certain criminal proceedings and to inspect certain sealed records for the purpose of licensing, employment or discipline of personnel; 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 391.312 is hereby amended to read as follows:  
2     391.312 1. A teacher may be suspended, dismissed or not  
3     reemployed and an administrator may be demoted, suspended, dismissed or  
4     not reemployed for the following reasons:  
5         (a) Inefficiency;  
6         (b) Immorality;  
7         (c) Unprofessional conduct;  
8         (d) Insubordination;  
9         (e) Neglect of duty;  
10        (f) Physical or mental incapacity;  
11        (g) A justifiable decrease in the number of positions due to decreased  
12        enrollment or district reorganization;  
13        (h) Conviction of a felony or of a crime involving moral turpitude;  
14        (i) *Suspension of proceedings or dismissal of charges pursuant to*  
15        *NRS 453.3363;*  
16        (j) Inadequate performance;  
17        ~~(k)~~ (k) Evident unfitness for service;



1 ~~(k)~~ (l) Failure to comply with such reasonable requirements as a  
2 board may prescribe;  
3 ~~(j)~~ (m) Failure to show normal improvement and evidence of  
4 professional training and growth;  
5 ~~(m)~~ (n) Advocating overthrow of the Government of the United  
6 States or of the State of Nevada by force, violence or other unlawful  
7 means, or the advocating or teaching of communism with the intent to  
8 indoctrinate pupils to subscribe to communistic philosophy;  
9 ~~(k)~~ (o) Any cause which constitutes grounds for the revocation of a  
10 teacher's license;  
11 ~~(j)~~ (p) Willful neglect or failure to observe and carry out the  
12 requirements of this Title;  
13 ~~(j)~~ (q) Dishonesty;  
14 ~~(q)~~ (r) Breaches in the security or confidentiality of the questions and  
15 answers of the achievement and proficiency examinations that are  
16 administered pursuant to NRS 389.015; or  
17 ~~(k)~~ (s) An intentional violation of NRS 388.5265 or 388.527.  
18 2. In determining whether the professional performance of a licensed  
19 employee is inadequate, consideration must be given to the regular and  
20 special evaluation reports prepared in accordance with the policy of the  
21 employing school district and to any written standards of performance  
22 which may have been adopted by the board.  
23 **Sec. 2.** NRS 391.313 is hereby amended to read as follows:  
24 391.313 1. Whenever an administrator charged with *the* supervision  
25 of a licensed employee believes it is necessary to admonish the employee  
26 for a reason that he believes may lead to demotion ~~(j)~~ *or* dismissal or cause  
27 the employee not to be reemployed under the provisions of NRS 391.312,  
28 he shall:  
29 (a) Except as otherwise provided in subsection 2, bring the matter to the  
30 attention of the employee involved, in writing, stating the reasons for the  
31 admonition and that it may lead to his demotion ~~(j)~~ *or* dismissal or a refusal  
32 to reemploy him, and make a reasonable effort to assist the employee to  
33 correct whatever appears to be the cause for his potential demotion ~~(j)~~ *or*  
34 dismissal or a potential recommendation not to reemploy him; and  
35 (b) Except as otherwise provided in NRS 391.314, allow reasonable  
36 time for improvement, which must not exceed 3 months for the first  
37 admonition.  
38 An admonition issued to a licensed employee who, within the time granted  
39 for improvement, has met the standards set for him by the administrator  
40 who issued the admonition must be removed from the records of the  
41 employee together with all notations and indications of its having been  
42 issued. The admonition must be removed from the records of the employee  
43 not later than 3 years after it is issued.  
44 2. An administrator need not admonish an employee pursuant to  
45 paragraph (a) of subsection 1 if his employment will be terminated  
46 pursuant to NRS 391.3197. If by February 15 of the first or second year of  
47 his probationary period a probationary employee does not receive a written  
48 notice pursuant to subsection 4 of NRS 391.3125 of a potential decision



1 not to reemploy him, he must receive an admonition before any such  
2 decision is made.

3 3. A licensed employee is subject to immediate dismissal or a refusal  
4 to reemploy according to the procedures provided in NRS 391.311 to  
5 391.3197, inclusive, without the admonition required by this section, on  
6 grounds contained in paragraphs (b), (f), (g), (h) , *(i)* and ~~(j)~~ *(q)* of  
7 subsection 1 of NRS 391.312.

8 **Sec. 3.** NRS 391.314 is hereby amended to read as follows:

9 391.314 1. If a superintendent has reason to believe that cause exists  
10 for the dismissal of a licensed employee and he is of the opinion that the  
11 immediate suspension of the employee is necessary in the best interests of  
12 the pupils in the district, the superintendent may suspend the employee  
13 without notice and without a hearing. Notwithstanding the provisions of  
14 NRS 391.312, a superintendent may suspend a licensed employee who has  
15 been officially charged but not yet convicted of a felony or a crime  
16 involving moral turpitude or immorality. If the charge is dismissed , *other*  
17 *than a dismissal pursuant to NRS 453.3363*, or if the employee is found  
18 not guilty, he must be reinstated with back pay, plus interest, and normal  
19 seniority. The superintendent shall notify the employee in writing of the  
20 suspension.

21 2. Within 5 days after a suspension becomes effective, the  
22 superintendent shall begin proceedings pursuant to the provisions of NRS  
23 391.312 to 391.3196, inclusive, to effect the employee's dismissal. The  
24 employee is entitled to continue to receive his salary and other benefits  
25 after the suspension becomes effective until the date on which the  
26 dismissal proceedings are commenced. The superintendent may  
27 recommend that an employee who has been charged with a felony or a  
28 crime involving immorality be dismissed for another ground set forth in  
29 NRS 391.312.

30 3. If sufficient grounds for dismissal do not exist, the employee must  
31 be reinstated with full compensation, plus interest.

32 4. A licensed employee who furnishes to the school district a bond or  
33 other security which is acceptable to the board as a guarantee that he will  
34 repay any amounts paid to him pursuant to this subsection as salary during  
35 a period of suspension is entitled to continue to receive his salary from the  
36 date on which the dismissal proceedings are commenced until the decision  
37 of the board or the report of the hearing officer, if the report is final and  
38 binding. The board shall not unreasonably refuse to accept security other  
39 than a bond. An employee who receives salary pursuant to this subsection  
40 shall repay it if he is dismissed or not reemployed as a result of a decision  
41 of the board or a report of a hearing officer.

42 5. A licensed employee who is convicted of a crime which requires  
43 registration pursuant to NRS 179D.200 to 179D.290, inclusive, or  
44 179D.350 to 179D.550, inclusive, or is convicted of an act forbidden by  
45 NRS 200.508, 201.190 or 201.265 forfeits all rights of employment from  
46 the date of his arrest.

47 6. A licensed employee who is convicted of any crime and who is  
48 sentenced to and serves any sentence of imprisonment forfeits all rights of



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1 employment from the date of his arrest or the date on which his  
2 employment terminated, whichever is later.

3 7. A licensed employee who is charged with a felony or a crime  
4 involving immorality or moral turpitude and who waives his right to a  
5 speedy trial while suspended may receive no more than 12 months of back  
6 pay and seniority upon reinstatement if he is found not guilty or the  
7 charges are dismissed, *other than a dismissal pursuant to NRS 453.3363*,  
8 unless proceedings have been begun to dismiss the employee upon one of  
9 the other grounds set forth in NRS 391.312.

10 8. A superintendent may discipline a licensed employee by suspending  
11 the employee with loss of pay at any time after a hearing has been held  
12 which affords the due process provided for in this chapter. The grounds for  
13 suspension are the same as the grounds contained in NRS 391.312. An  
14 employee may be suspended more than once during the employee's  
15 contract year, but the total number of days of suspension may not exceed  
16 20 in 1 contract year. Unless circumstances require otherwise, the  
17 suspensions must be progressively longer.

18 **Sec. 4.** NRS 391.330 is hereby amended to read as follows:

19 391.330 The state board may suspend or revoke the license of any  
20 teacher, administrator or other licensed employee, after notice and an  
21 opportunity for hearing have been provided pursuant to NRS 391.322 and  
22 391.323, for:

- 23 1. Immoral or unprofessional conduct.
- 24 2. Evident unfitness for service.
- 25 3. Physical or mental incapacity which renders the teacher,  
26 administrator or other licensed employee unfit for service.
- 27 4. Conviction of a felony or crime involving moral turpitude.
- 28 5. *Suspension of proceedings or dismissal of charges pursuant to*  
29 *NRS 453.3363.*

30 6. Conviction of a sex offense under NRS 200.366, 200.368, 201.190,  
31 201.220, 201.230 or 207.260 in which a pupil enrolled in a school of a  
32 county school district was the victim.

33 ~~16-1~~ 7. Knowingly advocating the overthrow of the Federal  
34 Government or of the State of Nevada by force, violence or unlawful  
35 means.

36 ~~17-1~~ 8. Persistent defiance of or refusal to obey the regulations of the  
37 state board, the commission or the superintendent of public instruction,  
38 defining and governing the duties of teachers, administrators and other  
39 licensed employees.

40 ~~18-1~~ 9. Breaches in the security or confidentiality of the questions and  
41 answers of the achievement and proficiency examinations that are  
42 administered pursuant to NRS 389.015.

43 ~~19-1~~ 10. An intentional violation of NRS 388.5265 or 388.527.

44 **Sec. 5.** NRS 179.285 is hereby amended to read as follows:

45 179.285 Except as otherwise provided in NRS 179.301, *453.3363 and*  
46 *453.3365*, if the court orders a record sealed pursuant to NRS 179.245,  
47 179.255 or 453.3365, all proceedings recounted in the record are deemed  
48 never to have occurred, and the person to whom it pertains may properly  
49 answer accordingly to any inquiry concerning the arrest, conviction or



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1 acquittal and the events and proceedings relating to the arrest, conviction or  
2 acquittal.

3 **Sec. 6.** NRS 179.295 is hereby amended to read as follows:

4 179.295 1. The person who is the subject of the records that are  
5 sealed pursuant to NRS 179.245, 179.255 or 453.3365 may petition the  
6 court that ordered the records sealed to permit inspection of the records by  
7 a person named in the petition, and the court may order such inspection.  
8 Except as otherwise provided in this section and NRS 179.301 ~~§~~ and  
9 ~~453.3365~~, the court may not order the inspection of the records under any  
10 other circumstances.

11 2. If a person has been arrested, the charges have been dismissed and  
12 the records of the arrest have been sealed, the court may order the  
13 inspection of the records by a prosecuting attorney upon a showing that as  
14 a result of newly discovered evidence, the person has been arrested for the  
15 same or a similar offense and that there is sufficient evidence reasonably to  
16 conclude that he will stand trial for the offense.

17 3. The court may, upon the application of a prosecuting attorney or an  
18 attorney representing a defendant in a criminal action, order an inspection  
19 of such records for the purpose of obtaining information relating to persons  
20 who were involved in the incident recorded.

21 **Sec. 7.** NRS 453.3363 is hereby amended to read as follows:

22 453.3363 1. If a person who has not previously been convicted of  
23 any offense pursuant to NRS 453.011 to 453.552, inclusive, or pursuant to  
24 any statute of the United States or of any state relating to narcotic drugs,  
25 marijuana, or stimulant, depressant or hallucinogenic substances tenders a  
26 plea of guilty, guilty but mentally ill, nolo contendere or similar plea to a  
27 charge pursuant to NRS 453.336, 453.411 or 454.351, or is found guilty of  
28 one of those charges, the court, without entering a judgment of conviction  
29 and with the consent of the accused, may suspend further proceedings and  
30 place him on probation upon terms and conditions that must include  
31 attendance and successful completion of an educational program or, in the  
32 case of a person dependent upon drugs, of a program of treatment and  
33 rehabilitation pursuant to NRS 453.580.

34 2. Upon violation of a term or condition, the court may enter a  
35 judgment of conviction and proceed as provided in the section pursuant to  
36 which the accused was charged. Notwithstanding the provisions of  
37 paragraph (e) of subsection 2 of NRS 193.130, upon violation of a term or  
38 condition, the court may order the person to the custody of the department  
39 of prisons.

40 3. Upon fulfillment of the terms and conditions, the court shall  
41 discharge the accused and dismiss the proceedings against him. A  
42 nonpublic record of the dismissal must be transmitted to and retained by  
43 the division of parole and probation of the department of motor vehicles  
44 and public safety solely for the use of the courts in determining whether, in  
45 later proceedings, the person qualifies under this section.

46 4. Except as otherwise provided in ~~subsection 5,~~ **subsections 5 and 6,**  
47 discharge and dismissal under this section is without adjudication of guilt  
48 and is not a conviction for purposes of this section or for purposes of  
49 employment, civil rights or any statute or regulation or license or



1 questionnaire or for any other public or private purpose, but is a conviction  
2 for the purpose of additional penalties imposed for second or subsequent  
3 convictions or the setting of bail. Discharge and dismissal restores the  
4 person discharged, in the contemplation of the law, to the status occupied  
5 before the arrest, indictment or information. ~~He~~ *Except as otherwise*  
6 *provided in subsections 5 and 6, the person discharged* may not be held  
7 thereafter under any law to be guilty of perjury or otherwise giving a false  
8 statement by reason of failure to recite or acknowledge that arrest,  
9 indictment, information or trial in response to an inquiry made of him for  
10 any purpose. Discharge and dismissal under this section may occur only  
11 once with respect to any person.

12 5. A professional licensing board may consider a proceeding under this  
13 section in determining suitability for a license or ~~liability to~~ *imposition of*  
14 discipline for misconduct. Such a board is entitled for those purposes to a  
15 truthful answer from the applicant or licensee concerning any such  
16 proceeding with respect to him.

17 *6. The state board of education, the superintendent of public*  
18 *instruction and the board of trustees of a school district may consider a*  
19 *proceeding under this section in determining suitability for a license,*  
20 *suitability for employment or imposition of discipline for misconduct.*  
21 *The state board of education, the superintendent of public instruction*  
22 *and the board of trustees of a school district are entitled for those*  
23 *purposes to a truthful answer from the applicant, licensee or employee*  
24 *concerning any such proceeding with respect to him.*

25 **Sec. 8.** NRS 453.3365 is hereby amended to read as follows:

26 453.3365 1. Three years after a person is convicted and sentenced  
27 pursuant to subsection 3 of NRS 453.336, the court may order sealed all  
28 documents, papers and exhibits in that person's record, minute book entries  
29 and entries on dockets, and other documents relating to the case in the  
30 custody of such other agencies and officers as are named in the court's  
31 order, if the:

32 (a) Person fulfills the terms and conditions imposed by the court and the  
33 parole and probation officer; and

34 (b) Court, after a hearing, is satisfied that the person is rehabilitated.

35 2. Except as limited by ~~subsection 4,~~ *subsections 4 and 5,* 3 years  
36 after an accused is discharged from probation pursuant to NRS 453.3363,  
37 the court shall order sealed all documents, papers and exhibits in that  
38 person's record, minute book entries and entries on dockets, and other  
39 documents relating to the case in the custody of such other agencies and  
40 officers as are named in the court's order if the person fulfills the terms and  
41 conditions imposed by the court and the division of parole and probation of  
42 the department of motor vehicles and public safety. The court shall order  
43 those records sealed without a hearing unless the division of parole and  
44 probation petitions the court, for good cause shown, not to seal the records  
45 and requests a hearing thereon.

46 3. If the court orders sealed the record of a person discharged pursuant  
47 to NRS 453.3363, it shall send a copy of the order to each agency or officer  
48 named in the order. Each such agency or officer shall notify the court in  
49 writing of its compliance with the order.



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1 4. A professional licensing board is entitled, for the purpose of  
2 determining suitability for a license or ~~liability to~~ *imposition of* discipline  
3 for misconduct, to inspect and to copy from a record sealed pursuant to this  
4 section.

5 *5. The state board of education, the superintendent of public*  
6 *instruction and the board of trustees of a school district are entitled, for*  
7 *the purpose of determining suitability for a license, suitability for*  
8 *employment or imposition of discipline for misconduct, to inspect and to*  
9 *copy from a record sealed pursuant to this section.*

10 **Sec. 9.** This act becomes effective upon passage and approval.

