

SENATE BILL NO. 339—COMMITTEE ON JUDICIARY

(ON BEHALF OF NEVADA SHERIFFS AND CHIEFS ASSOCIATION)

MARCH 14, 2001

Referred to Committee on Judiciary

SUMMARY—Provides for release of education record to certain persons under certain circumstances. (BDR 5-424)

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 records; providing for the release of education records to certain persons under certain circumstances; 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.** Chapter 62 of NRS is hereby amended by adding thereto a
2 new section to read as follows:

3 1. *A juvenile probation officer may inspect the education records of a*
4 *child, including, without limitation, records of discipline by a school, to*
5 *conduct a preliminary inquiry pursuant to NRS 62.128 when a juvenile*
6 *probation officer receives a complaint that a child:*

7 (a) *Has committed a delinquent offense; or*

8 (b) *Is in need of supervision.*

9 2. *Upon receipt of information pursuant to this section, a juvenile*
10 *probation officer shall certify in writing to the school that the*
11 *information received will not be disclosed to any other person except as*
12 *otherwise provided by state law without the prior written consent of the*
13 *parent or guardian of the child.*

14 3. *As used in this section, unless the context otherwise requires,*
15 *“education records” has the meaning ascribed to it in 20 U.S.C. §*
16 *1232g(a)(4).*

17 **Sec. 2.** NRS 385.347 is hereby amended to read as follows:

18 385.347 1. The board of trustees of each school district in this state,
19 in cooperation with associations recognized by the state board as
20 representing licensed personnel in education in the district, shall adopt a



1 program providing for the accountability of the school district to the
2 residents of the district and to the state board for the quality of the schools
3 and the educational achievement of the pupils in the district, including,
4 without limitation, pupils enrolled in charter schools in the school district.
5 2. The board of trustees of each school district shall, on or before
6 March 31 of each year, report to the residents of the district concerning:
7 (a) The educational goals and objectives of the school district.
8 (b) Pupil achievement for grades 4, 8, 10 and 11 for each school in the
9 district and the district as a whole, including, without limitation, each
10 charter school in the district.
11 Unless otherwise directed by the department, the board of trustees of the
12 district shall base its report on the results of the examinations administered
13 pursuant to NRS 389.015 and shall compare the results of those
14 examinations for the current school year with those of previous school
15 years. The report must include, for each school in the district, including,
16 without limitation, each charter school in the district, and each grade in
17 which the examinations were administered:
18 (1) The number of pupils who took the examinations;
19 (2) An explanation of instances in which a school was exempt from
20 administering or a pupil was exempt from taking an examination; and
21 (3) A record of attendance for the period in which the examinations
22 were administered, including an explanation of any difference in the
23 number of pupils who took the examinations and the number of pupils who
24 are enrolled in the school.
25 In addition, the board shall also report the results of other examinations of
26 pupil achievement administered to pupils in the school district in grades
27 other than 4, 8, 10 and 11. The results of these examinations for the current
28 school year must be compared with those of previous school years.
29 (c) The ratio of pupils to teachers in kindergarten and at each grade
30 level for each elementary school in the district and the district as a whole,
31 including, without limitation, each charter school in the district, the
32 average class size for each required course of study for each secondary
33 school in the district and the district as a whole, including, without
34 limitation, each charter school in the district, and other data concerning
35 licensed and unlicensed employees of the school district.
36 (d) The percentage of classes taught by teachers who have been
37 assigned to teach English, mathematics, science or social studies but do not
38 possess a license with an endorsement to teach in that subject area, for each
39 school in the district and the district as a whole, including, without
40 limitation, each charter school in the district.
41 (e) The total expenditure per pupil for each school in the district and the
42 district as a whole, including, without limitation, each charter school in the
43 district.
44 (f) The curriculum used by the school district, including:
45 (1) Any special programs for pupils at an individual school; and
46 (2) The curriculum used by each charter school in the district.
47 (g) Records of the attendance and truancy of pupils in all grades,
48 including, without limitation, the average daily attendance of pupils, for



- 1 each school in the district and the district as a whole, including, without
2 limitation, each charter school in the district.
- 3 (h) The annual rate of pupils who drop out of school in grades 9 to 12,
4 inclusive, for each such grade, for each school in the district and for the
5 district as a whole, excluding pupils who:
- 6 (1) Provide proof to the school district of successful completion of
7 the examinations of general educational development.
- 8 (2) Are enrolled in courses that are approved by the department as
9 meeting the requirements for an adult standard diploma.
- 10 (3) Withdraw from school to attend another school.
- 11 (i) Records of attendance of teachers who provide instruction, for each
12 school in the district and the district as a whole, including, without
13 limitation, each charter school in the district.
- 14 (j) Efforts made by the school district and by each school in the district,
15 including, without limitation, each charter school in the district, to
16 increase:
- 17 (1) Communication with the parents of pupils in the district; and
- 18 (2) The participation of parents in the educational process and
19 activities relating to the school district and each school, including, without
20 limitation, the existence of parent organizations and school advisory
21 committees.
- 22 (k) Records of incidents involving weapons or violence for each school
23 in the district, including, without limitation, each charter school in the
24 district.
- 25 (l) Records of incidents involving the use or possession of alcoholic
26 beverages or controlled substances for each school in the district,
27 including, without limitation, each charter school in the district.
- 28 (m) Records of the suspension and expulsion of pupils required or
29 authorized pursuant to NRS 392.466 and 392.467.
- 30 (n) The number of pupils who are deemed habitual disciplinary
31 problems pursuant to NRS 392.4655, for each school in the district and the
32 district as a whole, including, without limitation, each charter school in the
33 district.
- 34 (o) The number of pupils in each grade who are retained in the same
35 grade pursuant to NRS 392.125, for each school in the district and the
36 district as a whole, including, without limitation, each charter school in the
37 district.
- 38 (p) The transiency rate of pupils for each school in the district and the
39 district as a whole, including, without limitation, each charter school in the
40 district. For the purposes of this paragraph, a pupil is not transient if he is
41 transferred to a different school within the school district as a result of a
42 change in the zone of attendance by the board of trustees of the school
43 district pursuant to NRS 388.040.
- 44 (q) Each source of funding for the school district.
- 45 (r) The amount and sources of money received for remedial education
46 for each school in the district and the district as a whole, including, without
47 limitation, each charter school in the district.
- 48 (s) For each high school in the district, including, without limitation,
49 each charter school in the district, the percentage of pupils who graduated



1 from that high school or charter school in the immediately preceding year
2 and enrolled in remedial courses in reading, writing or mathematics at a
3 university or community college within the University and Community
4 College System of Nevada.

5 (t) The technological facilities and equipment available at each school,
6 including, without limitation, each charter school, and the district's plan to
7 incorporate educational technology at each school.

8 (u) For each school in the district and the district as a whole, including,
9 without limitation, each charter school in the district, the number and
10 percentage of pupils who graduate with:

11 (1) A standard high school diploma.

12 (2) An adjusted diploma.

13 (3) A certificate of attendance.

14 (v) For each school in the district and the district as a whole, including,
15 without limitation, each charter school in the district, the number and
16 percentage of pupils who did not receive a high school diploma because the
17 pupils failed to pass the high school proficiency examination.

18 (w) The number of habitual truants who are reported to a school police
19 officer or law enforcement agency pursuant to paragraph (a) of subsection
20 2 of NRS 392.144 and the number of habitual truants who are referred to
21 an advisory board to review school attendance pursuant to ~~paragraph~~
22 ~~paragraphs~~ (b) ~~and (c)~~ of subsection 2 of NRS 392.144, for each school in
23 the district and for the district as a whole.

24 (x) Such other information as is directed by the superintendent of public
25 instruction.

26 3. The records of attendance maintained by a school for purposes of
27 paragraph (i) of subsection 2 must include the number of teachers who are
28 in attendance at school and the number of teachers who are absent from
29 school. A teacher shall be deemed in attendance if the teacher is excused
30 from being present in the classroom by the school in which he is employed
31 for one of the following reasons:

32 (a) Acquisition of knowledge or skills relating to the professional
33 development of the teacher; or

34 (b) Assignment of the teacher to perform duties for cocurricular or
35 extracurricular activities of pupils.

36 4. The superintendent of public instruction shall:

37 (a) Prescribe forms for the reports required pursuant to subsection 2 and
38 provide the forms to the respective school districts.

39 (b) Provide statistical information and technical assistance to the school
40 districts to ensure that the reports provide comparable information with
41 respect to each school in each district and among the districts.

42 (c) Consult with a representative of the:

43 (1) Nevada State Education Association;

44 (2) Nevada Association of School Boards;

45 (3) Nevada Association of School Administrators;

46 (4) Nevada Parent Teachers Association;

47 (5) Budget division of the department of administration; and

48 (6) Legislative counsel bureau,



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1 concerning the program and consider any advice or recommendations
2 submitted by the representatives with respect to the program.

3 5. The superintendent of public instruction may consult with
4 representatives of parent groups other than the Nevada Parent Teachers
5 Association concerning the program and consider any advice or
6 recommendations submitted by the representatives with respect to the
7 program.

8 6. On or before April 15 of each year, the board of trustees of each
9 school district shall submit to each *advisory* board to review school
10 attendance created in the county pursuant to NRS 392.126 the information
11 required in paragraph (g) of subsection 2.

12 **Sec. 3.** NRS 386.655 is hereby amended to read as follows:

13 386.655 1. The department, the school districts and the public
14 schools shall, in operating the statewide automated system of information
15 established pursuant to NRS 386.650, comply with the provisions of:

16 (a) For all pupils, the Family Educational Rights and Privacy Act, 20
17 U.S.C. § 1232g, and any regulations adopted pursuant thereto; and

18 (b) For pupils with disabilities who are enrolled in programs of special
19 education, the provisions governing access to education records and
20 confidentiality of information prescribed in the Individuals with
21 Disabilities Education Act, 20 U.S.C. § 1417(c), and the regulations
22 adopted pursuant thereto.

23 2. Except as otherwise provided in 20 U.S.C. § 1232g(b), ~~and~~ any
24 other applicable federal law ~~and~~ *and the laws of this state*, a public school
25 shall not release the education records of a pupil to a person or an agency
26 of a federal, state or local government without the written consent of the
27 parent or legal guardian of the pupil.

28 3. In addition to the record required pursuant to 20 U.S.C. §
29 1232g(b)(4)(A), each school district shall maintain within the statewide
30 automated system of information an electronic record of all persons and
31 agencies who have requested the education record of a pupil or obtained
32 access to the education record of a pupil, or both, pursuant to 20 U.S.C. §
33 1232g. The electronic record must be maintained and may only be
34 disclosed in accordance with the provisions of 20 U.S.C. § 1232g.

35 4. The right accorded to a parent or legal guardian of a pupil pursuant
36 to subsection 2 devolves upon the pupil on the date on which he attains the
37 age of 18 years.

38 5. As used in this section, unless the context otherwise requires,
39 "education records" has the meaning ascribed to it in 20 U.S.C. §
40 1232g(a)(4).

41 **Sec. 4.** NRS 392.029 is hereby amended to read as follows:

42 392.029 1. If a parent or legal guardian of a pupil requests the
43 education records of the pupil, a public school shall comply with the
44 provisions of 20 U.S.C. § 1232g(a) and 34 C.F.R. Part 99.

45 2. If a parent or legal guardian of a pupil reviews the education records
46 of the pupil and requests an amendment or other change to the education
47 records, a public school shall comply with the provisions of 20 U.S.C. §
48 1232g(a) and 34 C.F.R. Part 99.



1 3. ~~Except as otherwise provided in 20 U.S.C. § 1232g(b), a~~ A public
2 school shall not release the education records of a pupil to a person, agency
3 or organization without the written consent of the parent or legal guardian
4 of the pupil ~~H~~ , *except for a release of education records without*
5 *consent:*

6 (a) *To members of the advisory board to review school attendance to*
7 *the extent necessary for the advisory board to carry out its duties*
8 *pursuant to NRS 392.146 and 392.147;*

9 (b) *To a juvenile probation officer, law enforcement officer or district*
10 *attorney who is conducting an investigation of truancy pursuant to*
11 *chapters 62 and 392 of NRS;*

12 (c) *To a juvenile probation officer conducting a preliminary inquiry*
13 *pursuant to NRS 62.128, as provided in section 1 of this act; or*

14 (d) *As otherwise authorized pursuant to 20 U.S.C. § 1232g(b).*

15 *Upon receipt of information pursuant to this subsection, a person*
16 *receiving the information shall certify in writing to the public school that*
17 *the information received will not be disclosed to any other person except*
18 *as otherwise provided by state law without the prior written consent of*
19 *the parent or guardian of the pupil.*

20 4. If a public school administers a program which includes a survey,
21 analysis or evaluation that is designed to elicit the information described in
22 20 U.S.C. § 1232h, it must comply with the provisions of that section.

23 5. A right accorded to a parent or legal guardian of a pupil pursuant to
24 the provisions of this section devolves upon the pupil on the date on which
25 he attains the age of 18 years.

26 6. A public school shall, at least annually, provide to each pupil who is
27 at least 18 years of age and to a parent or legal guardian of each pupil who
28 is not at least 18 years of age, written notice of his rights pursuant to this
29 section.

30 7. The provisions of this section:

31 (a) Are intended to ensure that each public school complies with the
32 provisions of 20 U.S.C. §§ 1232g and 1232h;

33 (b) Must, to the extent possible, be construed in a manner that is
34 consistent with 20 U.S.C. §§ 1232g and 1232h, and the regulations adopted
35 pursuant thereto;

36 (c) Apply to a public school regardless of whether the school receives
37 money from the Federal Government; and

38 (d) Do not impair any right, obligation or prohibition established
39 pursuant to ~~chapter~~ *chapters 62 and 432B* of NRS.

40 8. The state board may adopt such regulations as are necessary to
41 ensure that public schools comply with the provisions of this section.

42 9. *A public school or an employee of a public school who, in good*
43 *faith, releases or fails to release education records pursuant to subsection*
44 *3 is immune from civil or criminal liability for releasing or failing to*
45 *release education records pursuant to subsection 3 unless the public*
46 *school or employee of the public school acted with gross negligence.*

47 10. As used in this section, unless the context otherwise requires,
48 "education records" has the meaning ascribed to it in 20 U.S.C. §
49 1232g(a)(4).



1 **Sec. 5.** NRS 392.144 is hereby amended to read as follows:
2 392.144 1. If a pupil has one or more unapproved absences from
3 school, the school in which the pupil is enrolled shall take reasonable
4 actions designed, as applicable, to encourage, enable or convince the pupil
5 to attend school.

6 2. If a pupil is a habitual truant pursuant to NRS 392.140, the principal
7 of the school shall:

8 (a) Report the pupil to a school police officer or to the local law
9 enforcement agency for investigation and issuance of a citation, if
10 warranted, in accordance with NRS 392.149; ~~for~~

11 (b) If the parent or legal guardian of a pupil has signed a written consent
12 pursuant to subsection 4, submit a written referral of the pupil to the
13 advisory board to review school attendance in the county in accordance
14 with NRS 392.146 ~~for~~; or

15 (c) *If the parent or legal guardian of a pupil refuses to sign a written*
16 *consent pursuant to subsection 4, submit a written referral of the pupil to*
17 *the advisory board to review school attendance in the county in*
18 *accordance with NRS 392.146 and, upon request, release education*
19 *records to the advisory board in accordance with NRS 392.029.*

20 3. The board of trustees of each school district shall adopt criteria to
21 determine whether the principal of a school shall report a pupil to a school
22 police officer or law enforcement agency pursuant to paragraph (a) of
23 subsection 2 or refer a pupil to an advisory board to review school
24 attendance pursuant to ~~paragraph~~ *paragraphs* (b) *and (c)* of subsection 2.

25 4. If the principal of a school makes an initial determination to submit
26 a written referral of a pupil to the advisory board to review school
27 attendance, the principal shall notify the parent or legal guardian of the
28 pupil and request the parent or legal guardian to sign a written consent that
29 authorizes the school and, if applicable, the school district to release the
30 records of the pupil to the advisory board to the extent that such release is
31 necessary for the advisory board to carry out its duties pursuant to NRS
32 392.146 and 392.147. The written consent must comply with the applicable
33 requirements of 20 U.S.C. § 1232g(b) and 34 C.F.R. Part 99. If the parent
34 or legal guardian refuses to sign the consent, the principal shall ~~report~~:

35 (a) *Report* the pupil to a school police officer or to a local law
36 enforcement agency pursuant to paragraph (a) of subsection 2 ~~for~~; or

37 (b) *Submit a written referral of the pupil to the advisory board to*
38 *review school attendance pursuant to paragraph (c) of subsection 2.*

39 **Sec. 6.** This act becomes effective upon passage and approval.

