

Amendment No. 497

Assembly Amendment to Assembly Bill No. 261 (BDR 38-870)

Proposed by: Assembly Committee on Health and Human Services**Amendment Box:** Replaces Amendment No. 125.**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

RBL



Date: 4/16/2007

A.B. No. 261—Makes various changes to provisions relating to child abuse and neglect. (BDR 38-870)



ASSEMBLY BILL NO. 261—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE SUBCOMMITTEE TO OVERSEE THE
CONSULTANT TO STUDY THE HEALTH, SAFETY, WELFARE
AND CIVIL AND OTHER RIGHTS OF CHILDREN IN THE CARE OF
CERTAIN GOVERNMENTAL ENTITIES OR PRIVATE FACILITIES)

MARCH 8, 2007

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes to provisions relating to child abuse and neglect. (BDR 38-870)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to children; authorizing an agency which provides child welfare services to release to certain governmental agencies certain information concerning missing children who are in protective custody or with whom the agency has had contact; requiring an agency which provides child welfare services to release, upon request, certain information relating to a case of abuse or neglect which results in a fatality or near fatality; **requires the Legislative Auditor to receive and review certain information concerning certain children who suffer a fatality or near fatality**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes certain reports and records concerning reports of child abuse or neglect confidential except in certain circumstances and authorizes the release of certain information relating to data and information concerning reports and investigations of abuse and neglect of a child to specific persons. (NRS 432B.280, 432B.290) **Section 2** of this bill authorizes an agency which provides child welfare services to release certain information relating to a missing child who is the subject of an investigation of ~~alleged~~ abuse or neglect ~~for~~ **and who is in the custody of another entity pursuant to the order of a juvenile court** to certain governmental agencies that need the information to assist in locating the child and to carry out their duties in protecting children from abuse and neglect. The information that may be released includes the child's name, age, physical description and photograph. The agencies receiving this information may disclose the information to ~~others~~ **members of the general public upon request**.

Section 3 of this bill requires an agency which provides child welfare services to release upon request certain information relating to a case of abuse or neglect of a child which results

in a fatality or near fatality. The information that must be released includes the information that the Eighth Judicial District Court held in *In re Clark County*, 05-A510196 (April 4, 2006), may be disclosed in cases of child fatalities or near fatalities pursuant to the Child Abuse Prevention and Treatment Act of 1974, Public Law 93-247.

Sections 8-12 of this bill require the Legislative Auditor to receive and review certain information concerning any child who has had contact with or who has been in the custody of an agency which provides child welfare services and who suffers a fatality or near fatality. The Legislative Auditor is required to release certain information concerning such children upon request.

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

Section 1. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. For purposes of assisting in locating a missing child who is the subject of an investigation of ~~alleged~~ abuse or neglect ~~or~~ and who is in the protective custody of an agency which provides child welfare services ~~or~~ or in the custody of another entity pursuant to the order of the juvenile court, an agency which provides child welfare services may provide the following information to a federal, state or local governmental entity, or an agency of such an entity, that needs access to the information to carry out its legal responsibilities to protect children from abuse or neglect:*

- (a) The name of the child;
- (b) The age of the child;
- (c) A physical description of the child; and
- (d) A photograph of the child.

2. Information provided pursuant to subsection 1 is not confidential and may be disclosed ~~or~~ to any member of the general public upon request.

Sec. 3. *1. Data or information concerning reports and investigations thereof made pursuant to this chapter must be made available pursuant to this section to any member of the general public upon request if the child who is the subject of a report of ~~alleged~~ abuse or neglect suffered a fatality or near fatality. Any such data and information which is known must be made available not later than 48 hours after a fatality and not later than 5 business days after a near fatality. Except as otherwise provided in subsection 2, the data or information which must be disclosed includes, without limitation:*

- (a) A summary of the report of abuse or neglect and a factual description of the contents of the report;
- (b) The date of birth and gender of the child;
- (c) The date that the child suffered the fatality or near fatality;
- (d) The cause of the fatality or near fatality, if such information has been determined;

(e) Whether the agency which provides child welfare services had any contact with the child or a member of the child's family or household before the fatality or near fatality and, if so:

- (1) The frequency of any contact or communication with the child or a member of the child's family or household before the fatality or near fatality and the date on which the last contact or communication occurred before the fatality or near fatality;*

(2) Whether the agency which provides child welfare services provided any child welfare services to the child or to a member of the child's family or household before or at the time of the fatality or near fatality;

~~[(2)]~~ (3) Whether the agency which provides child welfare services made any referrals for child welfare services for the child or for a member of the child's family or household before or at the time of the fatality or near fatality;

~~[(3)]~~ (4) Whether the agency which provides child welfare services took any other actions concerning the welfare of the child before or at the time of the fatality or near fatality; and

~~[(4)]~~ (5) A summary of the status of the child's case at the time of the fatality or near fatality, including, without limitation, whether the child's case was closed by the agency which provides child welfare services before the fatality or near fatality and, if so, the reasons that the case was closed; and

(f) Whether the agency which provides child welfare services, in response to the fatality or near fatality:

(1) Has provided or intends to provide child welfare services to the child or to a member of the child's family or household;

(2) Has made or intends to make a referral for child welfare services for the child or for a member of the child's family or household; and

(3) Has taken or intends to take any other action concerning the welfare and safety of the child ~~or~~ or any member of the child's family or household.

2. An agency which provides child welfare services shall not disclose the following data or information pursuant to subsection 1:

(a) Except as otherwise provided in subsection 3 of NRS 432B.290, data or information concerning the identity of the person responsible for reporting the ~~alleged~~ abuse or neglect of the child to a public agency;

(b) The name of the child who suffered a near fatality or the name of any member of the family or other person who lives in the household of the child who suffered the fatality or near fatality;

(c) A privileged communication between an attorney and client;

~~[(c) Information that the agency which provides child welfare services believes may cause mental or physical harm to a child, a child's sibling or any other child living in the child's household;] and~~

(d) Information that may undermine a criminal investigation or pending criminal prosecution.

3. The Division of Child and Family Services shall adopt regulations to carry out the provisions of this section.

4. As used in this section, "near fatality" means an act that ~~is~~ as certified by a physician, places a child in serious or critical condition ~~is~~ as verified orally or in writing by a physician, a registered nurse or other licensed provider of health care. Such verification may be given in person or by telephone, mail, electronic mail or facsimile.

Sec. 4. NRS 432B.280 is hereby amended to read as follows:

432B.280 1. ~~Reports~~ Except as otherwise provided in sections 2 and 3 of this act, reports made pursuant to this chapter, as well as all records concerning these reports and investigations thereof, are confidential.

2. Any person, law enforcement agency or public agency, institution or facility who willfully releases data or information concerning such reports and investigations, except:

(a) Pursuant to a criminal prosecution relating to the abuse or neglect of a child;

(b) As otherwise authorized pursuant to section 2 or 3 of this act;

(c) As otherwise authorized or required pursuant to NRS 432B.290; or

1 ~~(e)~~ (d) As otherwise required pursuant to NRS 432B.513,
2 is guilty of a misdemeanor.

3 **Sec. 5.** NRS 432B.290 is hereby amended to read as follows:

4 432B.290 1. Except as otherwise provided in subsections 2 ~~[-5 and 6]~~ and 3
5 and NRS 432B.513, *and sections 2 and 3 of this act*, data or information
6 concerning reports and investigations thereof made pursuant to this chapter may be
7 made available only to:

8 (a) A physician, if the physician has before him a child who he has reasonable
9 cause to believe has been abused or neglected;

10 (b) A person authorized to place a child in protective custody, if the person has
11 before him a child who he has reasonable cause to believe has been abused or
12 neglected and the person requires the information to determine whether to place the
13 child in protective custody;

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

16 (1) The child; or

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

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

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

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

26 (g) The attorney and the guardian ad litem of the child;

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

29 (i) A federal, state or local governmental entity, or an agency of such an entity,
30 that needs access to the information to carry out its legal responsibilities to protect
31 children from abuse and neglect;

32 (j) A person or an organization that has entered into a written agreement with
33 an agency which provides child welfare services to provide assessments or services
34 and that has been trained to make such assessments or provide such services;

35 (k) A team organized pursuant to NRS 432B.350 for the protection of a child;

36 (l) A team organized pursuant to NRS 432B.405 to review the death of a child;

37 (m) A parent or legal guardian of the child and an attorney of a parent or
38 guardian of the child, if the identity of the person responsible for reporting the
39 ~~alleged~~ abuse or neglect of the child to a public agency is kept confidential;

40 (n) The persons who are the subject of a report;

41 (o) An agency that is authorized by law to license foster homes or facilities for
42 children or to investigate persons applying for approval to adopt a child, if the
43 agency has before it an application for that license or is investigating an applicant to
44 adopt a child;

45 (p) Upon written consent of the parent, any officer of this State or a city or
46 county thereof or Legislator authorized, by the agency or department having
47 jurisdiction or by the Legislature, acting within its jurisdiction, to investigate the
48 activities or programs of an agency which provides child welfare services if:

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

50 (2) The officer, Legislator or a member of his family is not the person
51 alleged to have committed the abuse or neglect;

52 (q) The Division of Parole and Probation of the Department of Public Safety
53 for use pursuant to NRS 176.135 in making a presentence investigation and report

1 to the district court or pursuant to NRS 176.151 in making a general investigation
2 and report;

3 (r) Any person who is required pursuant to NRS 432B.220 to make a report to
4 an agency which provides child welfare services or to a law enforcement agency;

5 (s) The Rural Advisory Board to Expedite Proceedings for the Placement of
6 Children created pursuant to NRS 432B.602 or a local advisory board to expedite
7 proceedings for the placement of children created pursuant to NRS 432B.604;

8 (t) The panel established pursuant to NRS 432B.396 to evaluate agencies
9 which provide child welfare services; or

10 (u) An employer in accordance with subsection 3 of NRS 432.100.

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

16 ~~—(a) The fact that a report of abuse or neglect has been made and, if appropriate,~~
17 ~~a factual description of the contents of the report;~~

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

20 ~~—(c) Such other information as is authorized for disclosure by a court pursuant to~~
21 ~~subsection 4.~~

22 ~~3. An agency which provides child welfare services shall not disclose data or~~
23 ~~information pursuant to subsection 2 if the agency determines that the disclosure is~~
24 ~~not in the best interests of the child or if disclosure of the information would~~
25 ~~adversely affect any pending investigation concerning a report.~~

26 ~~4. Upon petition, a court of competent jurisdiction may authorize the~~
27 ~~disclosure of additional information to the public pursuant to subsection 2 if good~~
28 ~~cause is shown by the petitioner for the disclosure of the additional information.~~

29 ~~5.} An agency investigating a report of the abuse or neglect of a child shall,~~
30 ~~upon request, provide to a person named in the report as allegedly causing the~~
31 ~~abuse or neglect of the child:~~

32 (a) A copy of:

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

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

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

42 ~~6.} 3. An agency which provides child welfare services shall disclose the~~
43 ~~identity of a person who makes a report or otherwise initiates an investigation~~
44 ~~pursuant to this chapter if a court, after reviewing the record in camera and~~
45 ~~determining that there is reason to believe that the person knowingly made a false~~
46 ~~report, orders the disclosure.~~

47 ~~7.} 4. Any person, except for:~~

48 (a) The subject of a report;

49 (b) A district attorney or other law enforcement officer initiating legal
50 proceedings; or

51 (c) An employee of the Division of Parole and Probation of the Department of
52 Public Safety making a presentence investigation and report to the district court

1 pursuant to NRS 176.135 or making a general investigation and report pursuant to
2 NRS 176.151,

3 who is given access, pursuant to subsection 1 or 2, to information identifying the
4 subjects of a report and who makes this information public is guilty of a
5 misdemeanor.

6 ~~[8-]~~ 5. The Division of Child and Family Services shall adopt regulations to
7 carry out the provisions of this section.

8 Sec. 6. Chapter 218 of NRS is hereby amended by adding thereto the
9 provisions set forth as sections 7 to 12, inclusive, of this act.

10 Sec. 7. As used in sections 7 to 12, inclusive, of this act, unless the context
11 otherwise requires, the words and terms defined in sections 8, 9 and 10 of this act
12 have the meanings ascribed to them in those sections.

13 Sec. 8. "Abuse or neglect of a child" has the meaning ascribed to it in NRS
14 432B.020.

15 Sec. 9. "Agency which provides child welfare services" has the meaning
16 ascribed to it in NRS 432B.030.

17 Sec. 10. "Near fatality" means an act that places a child in serious or
18 critical condition as verified orally or in writing by a physician, a registered nurse
19 or other licensed provider of health care. Such verification may be given in
20 person or by telephone, mail, electronic mail or facsimile.

21 Sec. 11. 1. Any time that a child who has had contact with, or who has
22 been in the custody of, an agency which provides child welfare services suffers a
23 fatality or a near fatality, the agency which provides child welfare services shall
24 notify the Legislative Auditor or his designee and shall forward to the Legislative
25 Auditor or his designee as soon as possible any files, notes, information and
26 records which the agency has concerning the child, the manner in which the case
27 was handled, any services that were provided to the child or the family of the
28 child and any other relevant information.

29 2. The Legislative Auditor or his designee shall review the information
30 obtained pursuant to subsection 1 to determine whether the case was handled in a
31 manner which is consistent with state and federal law and to determine whether
32 any measures, procedures or protocols could have assisted in preventing the
33 fatality or near fatality.

34 3. Each agency which provides child welfare services shall:

35 (a) Cooperate fully with the Legislative Auditor or his designee;

36 (b) Provide the Legislative Auditor or his designee with any data, reports or
37 information concerning a report or investigation of the abuse or neglect of a
38 child and the response by the agency; and

39 (c) Allow the Legislative Auditor to inspect, review and copy any records,
40 reports and other documents relevant to his duties pursuant to this section.

41 Sec. 12. 1. Except as otherwise provided in subsections 2 and 3, upon
42 request, the Legislative Auditor or his designee shall provide data and
43 information obtained pursuant to section 11 of this act concerning a child who
44 suffered a fatality or near fatality who had contact with or who was in the custody
45 of an agency which provides child welfare services. The data or information
46 which must be disclosed includes, without limitation:

47 (a) A summary of the report of the abuse or neglect of the child and a factual
48 description of the contents of the report;

49 (b) The date of birth and gender of the child;

50 (c) The date that the child suffered the fatality or near fatality;

51 (d) The cause of the fatality or near fatality, if such information has been
52 determined;

1 (e) Whether the agency which provides child welfare services had any
2 contact with the child or a member of the child's family or household before the
3 fatality or near fatality and, if so:

4 (1) The frequency of any contact or communication with the child or a
5 member of the child's family or household before the fatality or near fatality and
6 the date on which the last contact or communication occurred before the fatality
7 or near fatality;

8 (2) Whether the agency which provides child welfare services provided
9 any child welfare services to the child or to a member of the child's family or
10 household before or at the time of the fatality or near fatality;

11 (3) Whether the agency which provides child welfare services made any
12 referrals for child welfare services for the child or for a member of the child's
13 family or household before or at the time of the fatality or near fatality;

14 (4) Whether the agency which provides child welfare services took any
15 other actions concerning the welfare of the child before or at the time of the
16 fatality or near fatality; and

17 (5) A summary of the status of the child's case at the time of the fatality
18 or near fatality, including, without limitation, whether the child's case was closed
19 by the agency which provides child welfare services before the fatality or near
20 fatality and, if so, the reasons that the case was closed; and

21 (f) Whether the agency which provides child welfare services, in response to
22 the fatality or near fatality:

23 (1) Has provided or intends to provide child welfare services to the child
24 or to a member of the child's family or household;

25 (2) Has made or intends to make a referral for child welfare services for
26 the child or for a member of the child's family or household; and

27 (3) Has taken or intends to take any other action concerning the welfare
28 and safety of the child or a member of the child's family or household.

29 2. The Legislative Auditor or his designee shall not disclose information
30 pursuant to subsection 1 unless the person making the request has requested
31 such information from the agency which provides child welfare services and has
32 been denied access to such information or has not received the information in a
33 timely manner.

34 3. The Legislative Auditor or his designee shall not disclose the following
35 data or information pursuant to subsection 1:

36 (a) Except as otherwise provided in subsection 3 of NRS 432B.290, data or
37 information concerning the identity of the person responsible for reporting the
38 abuse or neglect of the child to a public agency;

39 (b) The name of the child who suffered a near fatality or the name of any
40 member of the family or other person who lives in the household of the child who
41 suffered the fatality or near fatality;

42 (c) A privileged communication between an attorney and client; or

43 (d) Information that may undermine a criminal investigation or pending
44 criminal prosecution.

45 ~~[Sec. 6.]~~ Sec. 13. This act becomes effective on July 1, 2007.