

SENATE BILL NO. 112—COMMITTEE ON  
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON  
CHILD WELFARE AND JUVENILE JUSTICE)

PREFILED FEBRUARY 3, 2011

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to the release of certain records in the custody of an agency which provides child welfare services. (BDR 38-199)

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 children; requiring certain records made by an agency which provides child welfare services to be provided to a juvenile court; limiting the use and disclosure of records provided to a juvenile court by an agency which provides child welfare services; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Sections 1 and 4** of this bill require an agency which provides child welfare services to provide to a juvenile court any record, report, recommendation, order or file of an investigation that the agency made pursuant to chapters 432 and 432B of NRS. Further, **sections 1 and 4**: (1) limit the use of the records by the juvenile court to the development of a plan for the care, treatment, supervision, commitment or placement of the child; (2) provide that the records may only be used as evidence against the child to prove the child committed a delinquent act or a criminal offense if otherwise authorized by a statute or procedural rule relating to evidence; and (3) prohibit the disclosure of the records by the juvenile court beyond the purposes or proceedings for which the records were provided.

**Sections 2, 3 and 5-9** of this bill amend existing law which provides for the confidentiality or use of certain records to include an exception for the records provided to the juvenile court pursuant to **sections 1 and 4** of this bill.



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

**Section 1.** Chapter 432 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. An agency which provides child welfare services shall, upon request of a juvenile court, provide to the juvenile court a copy of any record made pursuant to this chapter, including, without limitation, a report, recommendation, order or information concerning an investigation, which pertains to a child who is subject to the jurisdiction of the juvenile court.*

*2. A juvenile court:*

*(a) May use a record provided pursuant to subsection 1 to determine the disposition of a case, including, without limitation, to develop a plan for the care, treatment, supervision, commitment or placement of a child who is subject to the jurisdiction of the juvenile court; and*

*(b) Except as otherwise authorized by a statute or procedural rule relating to evidence which is applicable to the proceeding, shall not:*

*(1) Use a record provided pursuant to subsection 1 as evidence in a proceeding which is conducted to prove that a child committed a delinquent act or is in need of supervision; or*

*(2) Disclose the record for any purpose or proceeding for which the record was not provided pursuant to this section, including, without limitation, making the record open to inspection pursuant to NRS 62H.030 if the record was not used to determine the disposition of the case.*

*3. As used in this section, "juvenile court" has the meaning ascribed to it in NRS 62A.180.*

**Sec. 2.** NRS 432.035 is hereby amended to read as follows:

432.035 1. To safeguard and restrict the use or disclosure of any information concerning applicants for and recipients of services for child welfare to purposes directly connected to the administration of NRS 432.010 to 432.085, inclusive, *and section 1 of this act* by the Division, pursuant to the applicable provisions of the Social Security Act, the Division shall, in consultation with each agency which provides child welfare services, establish and enforce reasonable regulations governing the custody, use and preservation of the records, files and communications filed with the Division and any agency which provides child welfare services.

2. ~~[Whenever,]~~ *Except as otherwise provided in section 1 of this act, whenever,* pursuant to the provisions of law or regulations of the Division, names and addresses of, or information concerning, applicants for and recipients of services for child welfare are



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furnished to or held by an agency which provides child welfare services or any other agency or department of government, that agency or department shall comply with the regulations of the Division prohibiting the publication of information and its use for purposes not directly connected with the administration of NRS 432.010 to 432.085, inclusive, *and section 1 of this act* by the Division.

3. Except *as otherwise provided in section 1 of this act and* for purposes directly connected with the administration of NRS 432.010 to 432.085, inclusive, *and section 1 of this act*, no person may publish, disclose, use or permit or cause to be published, disclosed or used any confidential information pertaining to a recipient of services under the provisions of NRS 432.010 to 432.085, inclusive *and section 1 of this act*.

**Sec. 3.** NRS 432.091 is hereby amended to read as follows:

432.091 The provisions of NRS 432.010 to 432.085, inclusive, *and section 1 of this act* do not apply to the Program for Child Care and Development administered by the Division of Welfare and Supportive Services of the Department pursuant to chapter 422A of NRS.

**Sec. 4.** Chapter 432B of NRS is hereby amended by adding thereto a new section to read as follows:

*1. An agency which provides child welfare services shall, upon request of a court, provide to the court a copy of any record made pursuant to this chapter, including, without limitation, a report, recommendation, order or information concerning an investigation, which pertains to a child who is subject to the jurisdiction of the court.*

*2. A court:*

*(a) May use a record provided pursuant to subsection 1 to determine the disposition of a case, including, without limitation, to develop a plan for the care, treatment, supervision, commitment or placement of a child who is subject to the jurisdiction of the court; and*

*(b) Except as otherwise authorized by a statute or procedural rule relating to evidence which is applicable to the proceeding, shall not:*

*(1) Use a record provided pursuant to subsection 1 as evidence in a proceeding which is conducted to prove that a child committed a delinquent act or is in need of supervision; or*

*(2) Disclose the record for any purpose or proceeding for which the record was not provided pursuant to this section, including, without limitation, making the record open to inspection pursuant to NRS 62H.030 if the record was not used to determine the disposition of the case.*



**Sec. 5.** NRS 432B.280 is hereby amended to read as follows:

432B.280 1. Except as otherwise provided in NRS 239.0115, 432B.165, 432B.175 and 439.538 and except as otherwise authorized or required pursuant to NRS 432B.290 ~~§~~ *and section 4 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 NRS 432B.165 and 432B.175;

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

(d) As otherwise authorized or required pursuant to NRS 439.538; ~~or~~

(e) *As otherwise required pursuant to section 4 of this act; or*

(f) As otherwise required pursuant to NRS 432B.513,

➔ is guilty of a misdemeanor.

**Sec. 6.** NRS 432B.290 is hereby amended to read as follows:

432B.290 1. Except as otherwise provided in subsections 2 and 3 and NRS 432B.165, 432B.175 and 432B.513 ~~§~~ *and section 4 of this act*, data or information concerning reports and investigations thereof made pursuant to this chapter may be made available only to:

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

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

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

(1) The child; or

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

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

(e) A court, for in camera inspection only, unless the court determines that public disclosure of the information is necessary for



1 the determination of an issue before it ~~H~~ , *including, without*  
2 *limitation, the disposition of a case;*

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

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

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

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

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

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

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

20 (m) A parent or legal guardian of the child and an attorney of a  
21 parent or guardian of the child, if the identity of the person  
22 responsible for reporting the abuse or neglect of the child to a public  
23 agency is kept confidential;

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

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

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

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

36 (2) The officer, Legislator or a member of the family of the  
37 officer or Legislator is not the person alleged to have committed the  
38 abuse or neglect;

39 (q) The Division of Parole and Probation of the Department of  
40 Public Safety for use pursuant to NRS 176.135 in making a  
41 presentence investigation and report to the district court or pursuant  
42 to NRS 176.151 in making a general investigation and report;

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



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

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

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

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

(a) A copy of:

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

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

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

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

4. Any person, except for:

(a) The subject of a report;

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

(c) An employee of the Division of Parole and Probation of the Department of Public Safety making a presentence investigation and report to the district court pursuant to NRS 176.135 or making a general investigation and report pursuant to NRS 176.151,

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

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

**Sec. 7.** NRS 432B.407 is hereby amended to read as follows:

432B.407 1. A multidisciplinary team to review the death of a child is entitled to access to:



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(a) All investigative information of law enforcement agencies regarding the death;

(b) Any autopsy and coroner's investigative records relating to the death;

(c) Any medical or mental health records of the child; and

(d) Any records of social and rehabilitative services or of any other social service agency which has provided services to the child or the child's family.

2. Each organization represented on a multidisciplinary team to review the death of a child shall share with other members of the team information in its possession concerning the child who is the subject of the review, any siblings of the child, any person who was responsible for the welfare of the child and any other information deemed by the organization to be pertinent to the review.

3. A multidisciplinary team to review the death of a child may petition the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any books, records or papers relevant to the cause of any death being investigated by the team. Except as otherwise provided in NRS 239.0115, any books, records or papers received by the team pursuant to the subpoena shall be deemed confidential and privileged and not subject to disclosure.

4. ~~[Information]~~ *Except as otherwise provided in section 4 of this act, information* acquired by, and the records of, a multidisciplinary team to review the death of a child are confidential, must not be disclosed, and are not subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding.

**Sec. 8.** NRS 62D.420 is hereby amended to read as follows:

62D.420 1. In each proceeding conducted pursuant to the provisions of this title, the juvenile court may:

(a) Receive all competent, material and relevant evidence that may be helpful in determining the issues presented, including, but not limited to, oral and written reports; and

(b) ~~[Rely]~~ *Except as otherwise provided in sections 1 and 4 of this act, rely* on such evidence to the extent of its probative value.

2. The juvenile court shall afford the parties and their attorneys an opportunity to examine and controvert each written report that is received into evidence and to cross-examine each person who made the written report, when reasonably available.

**Sec. 9.** NRS 62H.030 is hereby amended to read as follows:

62H.030 1. The juvenile court shall make and keep records of all cases brought before the juvenile court.

2. Except as otherwise provided in this section and NRS 217.110 ~~[ ]~~ *and sections 1 and 4 of this act*, records of any case



1 brought before the juvenile court may be opened to inspection only  
2 by court order to persons who have a legitimate interest in the  
3 records.

4 3. The following records and information may be opened to  
5 inspection without a court order:

6 (a) Records of traffic violations which are being forwarded to  
7 the Department of Motor Vehicles;

8 (b) Records which have not been sealed and which are required  
9 by the Division of Parole and Probation for preparation of  
10 presentence investigations and reports pursuant to NRS 176.135 or  
11 general investigations and reports pursuant to NRS 176.151;

12 (c) Records which have not been sealed and which are to be  
13 used, pursuant to chapter 179D of NRS, by:

14 (1) The Central Repository;

15 (2) The Division of Parole and Probation; or

16 (3) A person who is conducting an assessment of the risk of  
17 recidivism of an adult or juvenile sex offender;

18 (d) Information maintained in the standardized system  
19 established pursuant to NRS 62H.200; and

20 (e) Information that must be collected by the Division of Child  
21 and Family Services pursuant to NRS 62H.220.

22 4. The clerk of the court shall prepare and cause to be printed  
23 forms for social and legal records and other papers as may be  
24 required.

25 **Sec. 10.** This act becomes effective on July 1, 2011.

