

Amendment No. 189

Senate Amendment to Senate Bill No. 31 (BDR 5-385)

Proposed by: Senate Committee on Judiciary

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will ADD a 2/3s majority vote requirement for final passage of S.B. 31 (§ 4.8).

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 underlining* is newly added transitory language.

SRT/BFG



Date: 4/15/2013

S.B. No. 31—Provides for the sharing of information regarding certain children among child welfare agencies, schools, courts, probation departments and treatment providers. (BDR 5-385)



SENATE BILL NO. 31—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED DECEMBER 20, 2012

Referred to Committee on Judiciary

SUMMARY—~~Provides for the sharing of information regarding certain children among child welfare agencies, schools, courts, probation departments and treatment providers.~~ Revises provisions governing children within the jurisdiction of the juvenile court and children in protective custody. (BDR 5-385)

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; ~~requiring certain persons to share~~ revising provisions concerning the release of certain information ~~and records~~; relating to a child ~~under certain circumstances; providing that a child in the custody of an agency which provides child welfare services is homeless for the purposes of~~ subject to the jurisdiction of the juvenile court; revising provisions governing the release of certain information maintained by agencies which provide child welfare services; revising provisions concerning certain federal educational assistance for homeless children; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section ~~1.1~~ 1.2 of this bill ~~requires judges of the juvenile court, masters of the juvenile court,~~ authorizes directors of juvenile services, ~~superintendents of school districts, the Superintendent of Public Instruction, the directors of agencies which provide child welfare services, qualified professionals, physicians, guardians ad litem and persons who provide substance abuse treatment to share~~ chief juvenile probation officers and the Chief of the Youth Parole Bureau, or his or her designee, to release, upon written request and good cause shown, certain information concerning a child who is within the purview of the juvenile court ~~unless sharing such information would violate certain federal laws governing the privacy of health and educational information. Section 2 of this bill enacts the same provisions concerning sharing information for children who are placed in the protective custody of an agency which provides child welfare services.~~ to certain other persons involved in the juvenile justice system. Under ~~sections 1 and 3,~~ section 1.2: (1) any information ~~shared~~ released must be kept confidential by the recipient of the information and be provided only to a person authorized by ~~sections 1 and 3,~~ section 1.2 to receive the information; and (2) the information may not be used to deny a child access to any services for which the child would otherwise be eligible. ~~Sections 1 and 3 further provide that for the purposes of the federal law~~

governing the privacy of the education records of a child, an agency which provides child welfare services is deemed to be the legal guardian of a child who is in the custody of the agency and, thus, may authorize the release of the child's education records.]

Section 1.2 also authorizes the release of certain information concerning a child who is within the purview of the juvenile court for the purposes of: (1) certain research concerning juvenile justice services if the information is provided in the aggregate and without the inclusion of personal identifying information; and (2) for the purposes of oversight of an agency, department or office providing services relating to juvenile justice. Section 1.4 of this bill authorizes the inspection of sealed juvenile justice records for research purposes.

Sections 2 and 4 of this bill [provides that, for the purposes of educational assistance available to homeless children pursuant to] enact provisions governing the application of the federal McKinney-Vento Homeless Assistance Act of 1987 [a child who is] to children in the protective custody of an agency which provides child welfare services. [is deemed homeless and, thus, eligible for such assistance, unless a court of competent jurisdiction has ordered a permanent home placement for the child.]

Sections 4.4, 4.6 and 4.8 of this bill authorize an agency which provides child welfare services to release certain information concerning reports or investigations of the alleged abuse or neglect of a child to certain agencies, persons and entities and provide for the confidentiality of such information. Section 4.8 also authorizes an agency which provides child welfare services to charge a fee for processing costs reasonably necessary to prepare the information for release.

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

Section 1. [Chapter 62D of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Notwithstanding any other provision of law, the following persons or their designees shall, upon receipt of a written request complying with the provisions of subsection 2, provide to any other person listed in this subsection information or records relating to a child as described in subsection 3:~~

- ~~(a) A judge of the juvenile court;~~
 - ~~(b) A master of the juvenile court;~~
 - ~~(c) A director of juvenile services;~~
 - ~~(d) The Superintendent of Public Instruction;~~
 - ~~(e) The superintendent of a school district;~~
 - ~~(f) The director or authorized representative of an agency which provides child welfare services;~~
 - ~~(g) A qualified professional;~~
 - ~~(h) A physician;~~
 - ~~(i) The guardian ad litem for the child; and~~
 - ~~(j) A person who has evaluated or treated the child for substance abuse,~~
- ~~unless providing the information or records would violate the Health Insurance Portability Accountability Act of 1996, Public Law 104-191, and applicable regulations, the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, and any regulations adopted pursuant thereto, or any other applicable provision of federal law.~~

2. ~~A written request pursuant to subsection 1 must state the reason that the information or records are requested and be made for the purpose of determining the appropriate placement of a child, the appropriate treatment or services to be provided to a child or the appropriate conditions of probation to be imposed on a child.~~

~~3. The information or records which must be provided pursuant to subsection 1 include, without limitation:~~

~~(a) The personal identifying information of the child;~~

~~(b) Any assessments or evaluations of the child relating to substance abuse or mental illness, or both;~~

~~(c) The medical history of the child or the child's history of treatment for mental health issues or substance abuse;~~

~~(d) Information relating to any placement of the child outside of the child's home;~~

~~(e) The education records of the child, including, without limitation, any individualized education program; and~~

~~(f) Any records of a case brought before the juvenile court which provide information relating to:~~

~~(1) The child, including, without limitation, any current or previous conditions of probation;~~

~~(2) The parents of the child;~~

~~(3) Any legal guardians of the child; and~~

~~(4) The adult members of any current or past household of the child.~~

~~4. Any information or records provided pursuant to this section is confidential and must be provided only to those persons listed in subsection 1.~~

~~5. Any information provided pursuant to this section may not be used to deny a child access to any service for which the child would otherwise be eligible, including, without limitation:~~

~~(a) Educational services;~~

~~(b) Social services;~~

~~(c) Mental health services;~~

~~(d) Medical services; or~~

~~(e) Legal services.~~

~~6. For the purposes of this section, an agency which provides child welfare services shall be deemed to be the legal guardian of a child who is in the custody of the agency for the purposes of authorizing the release of information governed by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto.~~

~~7. As used in this section:~~

~~(a) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.~~

~~(b) "Education records" has the meaning ascribed to it in 20 U.S.C. § 1232g(a)(4). (Deleted by amendment.)~~

Sec. 1.2. Chapter 62H of NRS is hereby amended by adding thereto a new section to read as follows:

1. Juvenile justice information must be maintained in accordance with federal law, and any provision of federal law authorizing the release of juvenile justice information must be construed as broadly as possible in favor of the release of juvenile justice information.

2. For the purpose of ensuring the safety, permanent placement, rehabilitation, educational success and well-being of a child, a director of juvenile services or the Chief of the Youth Parole Bureau, or his or her designee, may, upon written request and good cause shown, share appropriate juvenile justice information with:

(a) A judge of the juvenile court or his or her designee;

(b) A master of the juvenile court or his or her designee;

(c) A director of juvenile services or his or her designee;

(d) The Chief of the Youth Parole Bureau or his or her designee;

1 (e) A district attorney or his or her designee;
2 (f) An attorney representing the child;
3 (g) The director of a state agency which administers juvenile justice or his or
4 her designee;
5 (h) A director of a state, regional or local facility for the detention of
6 children or his or her designee;
7 (i) The director of an agency which provides child welfare services;
8 (j) A guardian ad litem or court appointed special advocate who represents
9 the child;
10 (k) A parent or guardian of the child if the release of the information to the
11 parent or guardian is consistent with the purposes of this section; or
12 (l) The child to whom the juvenile justice information pertains if the child
13 has reached the age of majority.
14 3. A written request for juvenile justice information pursuant to subsection
15 2 may be made only for the purpose of determining the appropriate placement of
16 the child pursuant to the provisions of chapter 432B of NRS, the appropriate
17 treatment or services to be provided to the child or the appropriate conditions of
18 probation or parole to be imposed on the child. The written request must state the
19 reason that the juvenile justice information is requested. A written request for
20 juvenile justice information may be refused if:
21 (a) The request does not demonstrate good cause for the release of the
22 information; or
23 (b) The release of the information would cause material harm to the child or
24 would prejudice any court proceeding to which the child is subject.
25 ↪ A refusal pursuant to this subsection must be made in writing to the person or
26 entity requesting the information not later than 3 days after receipt of the request,
27 excluding Saturdays, Sundays and holidays.
28 4. Any juvenile justice information provided pursuant to this section is
29 confidential, must be provided only to those persons listed in subsection 2 and
30 must be maintained in accordance with any applicable laws and regulations.
31 5. Any juvenile justice information provided pursuant to this section may
32 not be used to deny a child access to any service for which the child would
33 otherwise be eligible, including, without limitation:
34 (a) Educational services;
35 (b) Social services;
36 (c) Mental health services;
37 (d) Medical services; or
38 (e) Legal services.
39 6. A director of juvenile services or the Chief of the Youth Parole Bureau,
40 or his or her designee, may release juvenile justice information:
41 (a) In the aggregate and without personal identifying information included,
42 to a person engaged in bona fide research that may be used to improve juvenile
43 justice services or secure additional funding for juvenile justice services.
44 (b) As deemed necessary by a legislative body of this State or a local
45 government in this State to conduct an audit or proper oversight of any
46 department, agency or office providing services related to juvenile justice.
47 7. A judge of the juvenile court or a master of the juvenile court shall not
48 receive or release any juvenile justice information in a manner which violates
49 any applicable rules adopted by the Supreme Court, the Nevada Code of Judicial
50 Conduct or title 4 of NRS.
51 8. "Juvenile justice information" means any information maintained by a
52 director of juvenile services or the Chief of the Youth Parole Bureau, or his or
53 her designee, which is directly related to a child in need of supervision, a

delinquent child or any other child who is otherwise subject to the jurisdiction of the juvenile court.

Sec. 1.4. NRS 62H.170 is hereby amended to read as follows:

62H.170 1. Except as otherwise provided in this section, if the records of a person are sealed:

(a) All proceedings recounted in the records are deemed never to have occurred; and

(b) The person may reply accordingly to any inquiry concerning the proceedings and the acts which brought about the proceedings.

2. The juvenile court may order the inspection of records that are sealed if:

(a) The person who is the subject of the records petitions the juvenile court to permit the inspection of the records by the persons named in the petition;

(b) An agency charged with the medical or psychiatric care of the person who is the subject of the records petitions the juvenile court to permit the inspection of the records by the agency; ~~for~~

(c) A district attorney or an attorney representing a defendant in a criminal action petitions the juvenile court to permit the inspection of the records to obtain information relating to the persons who were involved in the acts detailed in the records. ~~for~~ or

(d) The juvenile court determines that the inspection of the records is necessary to:

(1) Perform bona fide outcome and recidivism studies;

(2) Further bona fide research to determine the effectiveness of juvenile justice services;

(3) Improve the delivery of juvenile justice services; or

(4) Obtain additional resources for the delivery of juvenile justice services.

Personal identifying information contained in records inspected pursuant to this paragraph must remain confidential in a manner consistent with any applicable laws and regulations.

3. Upon its own order, any court of this State may inspect records that are sealed if the records relate to a person who is less than 21 years of age and who is to be sentenced by the court in a criminal proceeding.

Sec. 1.6. NRS 218G.555 is hereby amended to read as follows:

218G.555 1. Except as otherwise provided in subsections 2 and 3, upon request, the Legislative Auditor or the Legislative Auditor's designee shall provide data and information obtained pursuant to NRS 218G.550 concerning a child who suffered a fatality or near fatality who had contact with or who was in the custody of an agency which provides child welfare services. The data or information which must be disclosed includes, without limitation:

(a) A summary of the report of the abuse or neglect of the child 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;

(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;

(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

(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 a member of the child's family or household.

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

3. The Legislative Auditor or his or her designee 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 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; or

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

Sec. 1.8. NRS 392B.110 is hereby amended to read as follows:

392B.110 1. The legal guardian or custodian of a child may submit to the Department an application to participate in the Program if:

(a) The child has been placed in a foster home; and

(b) The child is enrolled in a public school or is not enrolled in a school because the child has not attained the age required for enrollment.

2. A legal guardian or custodian of a child, as applicable:

(a) Must include in the application the name of the public school in which the child is enrolled, if applicable, and the name of the school in which the legal guardian or custodian of the child wishes to enroll the child. The public school in which the child wishes to enroll does not have to be located in the school district in which the child resides.

(b) May include in the application a statement describing the reason for requesting that the child participate in the Program.

3. Upon receipt of an application pursuant to subsection 1, the Department shall notify the school district in which the child resides and the school district in

1 which the child wishes to enroll, if applicable, that an application to participate in
2 the Program has been submitted on behalf of the child.

3 4. The Department shall approve an application if the application satisfies the
4 requirements of subsections 1 and 2.

5 5. Upon approval of an application, the Department shall provide a written
6 statement of approval to the legal guardian or custodian of the child, as applicable,
7 and the public school in which the child will be enrolled. Upon denial of an
8 application, the Department shall provide a written statement of denial to the legal
9 guardian or custodian of the child indicating the reason for the denial.

10 6. In determining whether to accept or deny an application submitted pursuant
11 to subsection 1, the Department, in coordination with the board of trustees of the
12 school district in which the child resides and the board of trustees of the school
13 district in which the child wishes to attend school, if applicable, shall consider the
14 best interests of the child in continuing the child's education in the public school in
15 which the child was enrolled before the child was placed in a foster home or in
16 transferring to another public school within this State. Every effort must be made to
17 enroll the child in the public school requested by the legal guardian or custodian of
18 the child pursuant to subsection 2.

19 7. Neither the board of trustees of the school district in which the child resides
20 nor the board of trustees of the school district in which the child attends school, if
21 applicable, is required to provide transportation for the child to attend a public
22 school which the child is not zoned to attend.

23 8. A child who is under the care, or in the legal or physical custody, of an
24 agency which provides child welfare services, as defined in NRS 432B.030, is
25 exempt from the provisions of this section and shall attend school in accordance
26 with the federal McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §
27 11301 et seq., and any regulations adopted pursuant thereto.

28 Sec. 2. Chapter 432B of NRS is hereby amended by adding thereto the
29 provisions set forth as sections 2.5, 3 and 4 of this act.

30 Sec. 2.5. "Information maintained by an agency which provides child
31 welfare services" means data or information concerning reports and
32 investigations made pursuant to this chapter, including, without limitation, the
33 name, address, date of birth, social security number and the image or likeness of
34 any child, family member of any child and reporting party or source, whether
35 primary or collateral.

36 Sec. 3. ~~1. Notwithstanding any other provision of law, the following~~
37 ~~persons or their designees shall, upon receipt of a written request complying with~~
38 ~~the provisions of subsection 2, provide to any other person listed in this~~
39 ~~subsection information or records relating to a child as described in subsection 3:~~

- 40 ~~— (a) A judge of the juvenile court;~~
41 ~~— (b) A master of the juvenile court;~~
42 ~~— (c) A director of juvenile services;~~
43 ~~— (d) The superintendent of a school district;~~
44 ~~— (e) The director or authorized representative of an agency which provides~~
45 ~~child welfare services;~~
46 ~~— (f) A qualified professional;~~
47 ~~— (g) A physician;~~
48 ~~— (h) The guardian ad litem for the child; and~~
49 ~~— (i) A person who has evaluated or treated the child for substance abuse,~~
50 ~~unless providing the information or records would violate the Health~~
51 ~~Insurance Portability Accountability Act of 1996, Public Law 104-191, and~~
52 ~~applicable regulations, the Family Educational Rights and Privacy Act, 20 U.S.C.~~

~~1232g, and any regulations adopted pursuant thereto, or any other applicable provision of federal law.~~

~~2. A written request pursuant to subsection 1 must state the reason that the information or records are requested and be made for the purpose of determining the appropriate placement of a child in protective custody or the appropriate treatment or services to be provided to a child placed in protective custody.~~

~~3. The information or records which must be provided pursuant to subsection 1 include, without limitation:~~

~~(a) The personal identifying information of the child;~~

~~(b) Any assessments or evaluations of the child relating to substance abuse or mental illness, or both;~~

~~(c) The medical history of the child or the child's history of treatment for mental health issues or substance abuses;~~

~~(d) Information relating to any placement of the child outside of the child's home;~~

~~(e) The education records of the child, including, without limitation, any individualized education program; and~~

~~(f) Any records of a case brought before the juvenile court which provide information relating to:~~

~~(1) The child, including, without limitation, any current or previous conditions of probation;~~

~~(2) The parents of the child;~~

~~(3) Any legal guardians of the child; and~~

~~(4) The adult members of any current or past household of the child.~~

~~4. Any information or records provided pursuant to this section is confidential and must be provided only to those persons listed in subsection 1.~~

~~5. Any information provided pursuant to this section may not be used to deny a child access to any service for which the child would otherwise be eligible, including, without limitation:~~

~~(a) Educational services;~~

~~(b) Social services;~~

~~(c) Mental health services;~~

~~(d) Medical services; or~~

~~(e) Legal services.~~

~~6. For the purposes of this section, an agency which provides child welfare services shall be deemed to be the legal guardian of a child who is in the custody of the agency for the purposes of authorizing the release of information governed by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto.~~

~~7. As used in this section:~~

~~(a) "Director of juvenile services" has the meaning ascribed to it in NRS 624.080.~~

~~(b) "Education records" has the meaning ascribed to it in 20 U.S.C. § 1232g(a)(4).~~

~~(c) "Qualified professional" has the meaning ascribed to it in NRS 624.270.]~~

~~(Deleted by amendment.)~~

Sec. 4. 1. A child who is in the legal and physical custody of an agency which provides child welfare services and is awaiting foster care placement shall be deemed to be homeless for the purposes of the federal McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. § 11301 et seq., and any regulations adopted pursuant thereto, unless a court of competent jurisdiction has ordered the permanent placement of the child. If a child is legally adopted or ordered by a court of competent jurisdiction to a permanent placement, the child is no longer

1 deemed homeless for the purposes of the federal McKinney-Vento Homeless
2 Assistance Act of 1987, 42 U.S.C. § 11301 et seq., and any regulations adopted
3 pursuant thereto.

4 2. For the purpose of this section, "awaiting foster care placement" means
5 the period during which a child is removed from his or her home until he or she
6 is legally adopted or enters a permanent placement.

7 Sec. 4.2. NRS 432B.010 is hereby amended to read as follows:

8 432B.010 As used in this chapter, unless the context otherwise requires, the
9 words and terms defined in NRS 432B.020 to 432B.110, inclusive, and section 2.5
10 of this act have the meanings ascribed to them in those sections.

11 Sec. 4.4. NRS 432B.175 is hereby amended to read as follows:

12 432B.175 1. Data or information concerning reports and investigations
13 thereof made pursuant to this chapter must be made available pursuant to this
14 section to any member of the general public upon request if the child who is the
15 subject of a report of abuse or neglect suffered a fatality or near fatality. Any such
16 data and information which is known must be made available not later than 48
17 hours after a fatality and not later than 5 business days after a near fatality. Except
18 as otherwise provided in subsection 2, the data or information which must be
19 disclosed includes, without limitation:

20 (a) A summary of the report of abuse or neglect and a factual description of the
21 contents of the report;

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

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

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

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

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

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

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

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

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

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

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

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

52 (3) Has taken or intends to take any other action concerning the welfare
53 and safety of the child 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 2 of~~ NRS 432B.290, data or information concerning the identity of the person responsible for reporting the 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; 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 places a child in serious or critical condition 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. 4.6. 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, information maintained by an agency which provides child welfare services, including, without limitation, reports and investigations made pursuant to this chapter, ~~as well as all records concerning these reports and investigations thereof, are~~ is confidential.

2. Any person, law enforcement agency or public agency, institution or facility who ~~willfully~~ releases ~~data~~ or ~~information concerning~~ disseminates such ~~reports and investigations,~~ information, 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 NRS 432B.513,

↪ is guilty of a gross misdemeanor.

Sec. 4.8. NRS 432B.290 is hereby amended to read as follows:

432B.290 1. Information maintained by an agency which provides child welfare services must be maintained by the agency which provides child welfare services as required by federal law as a condition of the allocation of federal money to this State.

2. Except as otherwise provided in ~~subsections 2 and 3~~ this section and NRS 432B.165, 432B.175 and 432B.513, ~~data or~~ information ~~concerning reports and investigations thereof made pursuant to this chapter,~~ maintained by an agency which provides child welfare services may, at the discretion of the agency which provides child welfare services, 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) Except as otherwise provided in paragraph (f), a court ~~if~~ other than a juvenile dependency court, for in camera inspection only, unless the court determines in a written finding provided to the agency which provides child welfare services that public disclosure of the information is necessary for the determination of an issue before it;

(f) A court as defined in NRS 159.015 for in camera inspection only, to determine whether a guardian or successor guardian of a child should be appointed pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive;

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

(h) The attorney and the guardian ad litem of the child ~~if~~ if the information is reasonably necessary to promote the safety, permanency and well-being of the child;

(i) A person who files ~~for intends to file~~ a petition for the appointment of a guardian or successor guardian of a child pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive, if the ~~identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential;~~ information is reasonably necessary to promote the safety, permanency and well-being of the child;

(j) The proposed guardian or proposed successor guardian of a child over whom a guardianship is sought pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive, if the ~~identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential;~~ information is reasonably necessary to promote the safety, permanency and well-being of the child;

(k) A grand jury upon its determination that access to ~~these records~~ the information is necessary in the conduct of its official business;

(l) A federal, state or local governmental entity, or an agency of such an entity, or a juvenile dependency court, that needs access to the information to carry out its legal responsibilities to protect children from abuse and neglect;

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

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

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

(p) A parent or legal guardian of the child and an attorney of a parent or guardian of the child, including, without limitation, the parent or guardian of a child over whom a guardianship is sought pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive, if the ~~identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential;~~ information is reasonably necessary to promote the safety, permanency and well-being of the child and is limited to information concerning that parent or guardian;

(q) The child over whom a guardianship is sought pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive, if:

(1) The child is 14 years of age or older; and

(2) The ~~identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential;~~ information is

reasonably necessary to promote the safety, permanency and well-being of the child;

(r) The persons or agent of the persons who are the subject of a report ~~if~~, if the information is reasonably necessary to promote the safety, permanency and well-being of the child and is limited to information concerning those persons;

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

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

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

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

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

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

(w) 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;

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

(y) An employer in accordance with subsection 3 of NRS 432.100; or

(z) A team organized or sponsored pursuant to NRS 217.475 or 228.495 to review the death of the victim of a crime that constitutes domestic violence.

~~2-3~~ 3. 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 ~~+~~

~~2. 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, or any collateral sources and reporting parties.~~

4. Except as otherwise provided by subsection 6, before releasing any information maintained by an agency which provides child welfare services pursuant to this section, an agency which provides child welfare services shall take whatever precautions it determines are reasonably necessary to protect the identity and safety of any person who reports child abuse or neglect and to protect

1 any other person if the agency which provides child welfare services reasonably
2 believes that disclosure of the information would cause a specific and material
3 harm to an investigation of the alleged abuse or neglect of a child or the life or
4 safety of any person.

5 5. The provisions of this section must not be construed to require an agency
6 which provides child welfare services to disclose information maintained by the
7 agency which provides child welfare services if, after consultation with the
8 attorney who represents the agency, the agency determines that such disclosure
9 would cause a specific and material harm to a criminal investigation.

10 6. A person who is the subject of an unsubstantiated report of child abuse
11 or neglect made pursuant to this chapter and who believes that the report was
12 made in bad faith or with malicious intent may petition a district court to order
13 the agency which provides child welfare services to release information
14 maintained by the agency which provides child welfare services. The petition
15 must specifically set forth the reasons supporting the belief that the report was
16 made in bad faith or with malicious intent. The petitioner shall provide notice to
17 the agency which provides child welfare services so that the agency may
18 participate in the action through its counsel. The district court shall review the
19 information which the petitioner requests to be released and the petitioner shall
20 be allowed to present evidence in support of the petition. If the court determines
21 that there is a reasonable question of fact as to whether the report was made in
22 bad faith or with malicious intent and that the disclosure of the identity of the
23 person who made the report would not be likely to endanger the life or safety of
24 the person who made the report, the court shall provide a copy of the information
25 to the petitioner and the original information is subject to discovery in a
26 subsequent civil action regarding the making of the report.

27 7. If an agency which provides child welfare services receives any
28 information that is deemed confidential by law, the agency which provides child
29 welfare services shall maintain the confidentiality of the information as
30 prescribed by applicable law.

31 8. Pursuant to this section, a person may authorize the release of
32 information maintained by an agency which provides child welfare services about
33 himself or herself, but may not waive the confidentiality of such information
34 concerning any other person.

35 9. An agency which provides child welfare services may provide a summary
36 of the outcome of an investigation of the alleged abuse or neglect of a child to the
37 person who reported the suspected abuse or neglect.

38 10. Any person, except for:

39 (a) ~~{The subject of a report;~~
40 ~~(b)}~~ A district attorney or other law enforcement officer initiating legal
41 proceedings; or

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

46 who is ~~{given access, pursuant to subsection 1, to}~~ provided with information
47 ~~{identifying the subjects of a report}~~ maintained by an agency which provides
48 child welfare services and further disseminates this information, or who makes
49 this information public, is guilty of a gross misdemeanor.

50 ~~{5. The Division of Child and Family Services}~~

51 11. An agency which provides child welfare services may charge a fee for
52 processing costs reasonably necessary to prepare information maintained by the
53 agency which provides child welfare services for release pursuant to this section.

1 12. An agency which provides child welfare services shall adopt rules or
2 regulations to carry out the provisions of this section.
3 **Sec. 5.** This act becomes effective on July 1, 2013.