

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. (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 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 certain federal educational assistance for homeless children; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill requires judges of the juvenile court, masters of the
2 juvenile court, directors of juvenile services, superintendents of school districts, the
3 Superintendent of Public Instruction, the directors of agencies which provide child
4 welfare services, qualified professionals, physicians, guardians ad litem and
5 persons who provide substance abuse treatment to share certain information
6 concerning a child who is within the purview of the juvenile court unless sharing
7 such information would violate certain federal laws governing the privacy of health
8 and educational information. **Section 3** of this bill enacts the same provisions
9 concerning sharing information for children who are placed in the protective
10 custody of an agency which provides child welfare services. Under **sections 1 and**
11 **3**: (1) any information shared must be kept confidential and be provided only to a
12 person authorized by **sections 1 and 3** to receive the information; and (2) the
13 information may not be used to deny a child access to any services for which
14 the child would otherwise be eligible. **Sections 1 and 3** further provide that for the
15 purposes of the federal law governing the privacy of the education records of a
16 child, an agency which provides child welfare services is deemed to be the legal



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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 4 of this bill provides that, for the purposes of educational assistance available to homeless children pursuant to the federal McKinney-Vento Homeless Assistance Act of 1987, a child who is 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.

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;*



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

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

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

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

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

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

13 (2) The parents of the child;

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

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

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

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

23 (a) Educational services;

24 (b) Social services;

25 (c) Mental health services;

26 (d) Medical services; or

27 (e) Legal services.

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

34 7. As used in this section:

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

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

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

41 Sec. 3. 1. Notwithstanding any other provision of law, the
42 following persons or their designees shall, upon receipt of a
43 written request complying with the provisions of subsection 2,
44 provide to any other person listed in this subsection information or
45 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 a school district;
(e) The director or authorized representative of an agency which provides child welfare services;
(f) A qualified professional;
(g) A physician;
(h) The guardian ad litem for the child; and
(i) 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 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 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.



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

- 4 (a) *Educational services;*
5 (b) *Social services;*
6 (c) *Mental health services;*
7 (d) *Medical services; or*
8 (e) *Legal services.*

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

15 7. *As used in this section:*

16 (a) *“Director of juvenile services” has the meaning ascribed to*
17 *it in NRS 62A.080.*

18 (b) *“Education records” has the meaning ascribed to it in 20*
19 *U.S.C. § 1232g(a)(4).*

20 (c) *“Qualified professional” has the meaning ascribed to it in*
21 *NRS 62A.270.*

22 **Sec. 4.** *A child who is in the legal and physical custody of an*
23 *agency which provides child welfare services shall be deemed to be*
24 *homeless for the purposes of the federal McKinney-Vento*
25 *Homeless Assistance Act of 1987, 42 U.S.C. § 11301 et seq., and*
26 *any regulations adopted pursuant thereto unless a court of*
27 *competent jurisdiction has ordered the permanent placement of*
28 *the child.*

29 **Sec. 5.** *This act becomes effective on July 1, 2013.*

