

Amendment No. 204

Senate Amendment to Senate Bill No. 58	(BDR 5-490)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: Yes 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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

DY/BAW



Date: 4/19/2015

S.B. No. 58—Revises provisions governing the release of information relating to children within the jurisdiction of the juvenile court and children in protective custody. (BDR 5-490)



SENATE BILL NO. 58—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED DECEMBER 20, 2014

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the release of information relating to children within the jurisdiction of the juvenile court ~~and children in protective custody~~. (BDR 5-490)

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; revising provisions concerning the release of certain information relating to a child subject to the jurisdiction of the juvenile court; ~~revising provisions governing the release of certain information maintained by agencies which provide child welfare services;~~ providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes directors of juvenile services 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 to certain other persons involved in the juvenile justice system. (NRS 62H.025) ~~Section 1 of this bill specifies that juvenile justice information is confidential and may only be released under certain circumstances. This bill also~~ revises: (1) the information that may be released; (2) the list of persons to whom the information may be released; and (3) the circumstances under which the information may be released. ~~Section 1 also~~ This bill further eliminates the requirement that a request for such information be in writing and ~~that good cause be shown~~ revises from 3 days to 5 business days the period in which a denial of a request for the release of the information.

~~Existing law authorizes an agency which provides child welfare services to release certain information concerning reports and investigations of the alleged abuse or neglect of a child to certain persons, agencies and entities and requires the agency to maintain the confidentiality of such information. (NRS 432B.290) Section 2 of this bill provides that such information may also be released to juvenile justice or care agencies. must be made to the person who requested the information. Finally, this bill makes it a gross misdemeanor for certain persons to disseminate or make public juvenile justice information.~~

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

Section 1. NRS 62H.025 is hereby amended to read as follows:

62H.025 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.~~ is confidential and may only be released in accordance with the provisions of this section or as expressly authorized by other federal or state law.

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

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

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

(c) A district attorney or his or her designee;

(d) An attorney representing the child;

(e) The director of a state agency which administers juvenile justice or his or her designee;

(f) A director of a state, regional or local facility for the detention of children or his or her designee;

(g) The director of an agency which provides child welfare services or his or her designee;

(h) A guardian ad litem or court appointed special advocate who represents the child;

(i) A parent or guardian of the child ~~; if the release of the information to the parent or guardian is consistent with the purposes of this section; or~~

(j) The child to whom the juvenile justice information pertains if the child has reached the age of majority ~~or~~, or a person who presents a release that is signed by the child who has reached the age of majority and which specifies the juvenile justice information to be released and the purpose for the release;

(k) A school district, if the juvenile justice agency and the school district have entered into a written agreement to share juvenile justice information for a purpose consistent with the purposes of this section;

(l) A person or organization who has entered into a written agreement with the juvenile justice agency to provide assessments or juvenile justice services;

(m) A person engaged in bona fide research that may be used to improve juvenile justice services or secure additional funding for juvenile justice services if the juvenile justice information is provided in the aggregate and without any personal identifying information; or

(n) A person who is authorized by a court order to receive the juvenile justice information, if the juvenile justice agency was provided with notice and opportunity to be heard before the issuance of the order.

3. ~~A written request for juvenile justice information pursuant to subsection 2 may be made only for the purpose of determining the appropriate placement of the child pursuant to the provisions of chapter 432B of NRS, the appropriate treatment or services to be provided to the child or the appropriate conditions of probation or parole to be imposed on the child. The written request must state the reason that the juvenile justice information is requested.~~ A written juvenile justice agency may deny a request for juvenile justice information if:

(a) The request does not, in accordance with the purposes of this section, demonstrate good cause for the release of the information; or

(b) The release of the information would cause material harm to the child or would prejudice any court proceeding to which the child is subject.

➤ A refusal, denial pursuant to this subsection must be made in writing to the person for entity requesting the information not later than 33 5 business days after receipt of the request, excluding Saturdays, Sundays and holidays.

4. another juvenile justice or care agency but only when:

(a) The other juvenile justice or care agency is investigating a matter or involved in a case or proceeding concerning the child; or

(b) The responsibility for supervising the child has been assigned to the other juvenile justice or care agency.

3. Any juvenile justice information provided pursuant to this section is confidential, must be provided only to those persons listed in subsection 2 and must be maintained in accordance with any applicable laws and regulations.

5-1 4. Any juvenile justice 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.

5. Notwithstanding any other provision of this chapter and except as otherwise provided in this subsection, the release of any record in possession of a law enforcement agency, a prosecuting attorney or an attorney representing a child, as such records pertain to the investigation, diversion or prosecution of an offense committed by a child, must be made in accordance with chapter 47 of NRS, discovery procedures pursuant to the Nevada Rules of Civil Procedure or the Justice Court Rules of Civil Procedure, as applicable, the Nevada Supreme Court Rules and any other statute or rule of law governing the criminal investigation or prosecution of an adult. Upon the decision to arrest or the actual arrest of a child, a law enforcement agency or a prosecuting attorney may:

(a) Cooperate with the public or private school that the child attends by releasing to the school information pertaining to the investigation, diversion or prosecution of the child.

(b) Release any incident report to the public or private school that the child attends unless releasing the report would jeopardize the investigation, prosecution or defense of the child or endanger witnesses. If releasing an incident report would jeopardize the investigation, prosecution or defense of the child or endanger witnesses, the law enforcement agency or prosecuting attorney shall limit any release of information contained in the incident report to the extent necessary to assist the school in protecting other students and staff.

6. A director of juvenile services or the Chief of the Youth Parole Bureau, or his or her designee, may release juvenile justice information:

(a) In the aggregate and without personal identifying information included, to a person engaged in bona fide research that may be used to improve juvenile justice services or secure additional funding for juvenile justice services.

(b) As deemed necessary by a legislative body of this State or a local government in this State to conduct an audit or proper oversight of any department, agency or office providing services related to juvenile justice.

7. A juvenile court may, as part of a bona fide outcome and recidivism study, use personal identifying information from records sealed pursuant to NRS

~~62H.100 to 62H.170, inclusive, to obtain a criminal background check on a person who was adjudicated delinquent pursuant to the provisions of this title. A criminal background check obtained pursuant to this subsection must comply with any applicable federal and state laws and regulations and must remain confidential within the confines of the study being conducted. The results of any criminal background check obtained pursuant to this subsection must be returned to the juvenile court and the court must, for the purposes of the study, provide the results without the personal identifying information.~~

~~8-1 Any person, except for:~~

~~(a) A district attorney initiating legal proceedings; or~~

~~(b) A person or organization described in subsection 2 who provides a report concerning juvenile justice information to a court or other party pursuant to this title or chapter 432B of NRS,~~

~~who is provided with juvenile justice information pursuant to this section and who further disseminates the information or makes the information public, is guilty of a gross misdemeanor.~~

~~6. As used in this section [“juvenile”]:~~

~~(a) “Juvenile justice agency” means the Youth Parole Bureau or a director of juvenile services.~~

~~(b) “Juvenile justice information” means any information maintained by a director of juvenile services or the Chief of the Youth Parole Bureau, or his or 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 files of a juvenile court for a probation department and the records of any other juvenile justice or care agency investigating a matter or involved in a case or proceeding concerning a child, including, without limitation, educational records and records of any agency which provides child welfare services.~~

~~(b) “Juvenile justice or care agency” includes:~~

~~(1) A law enforcement agency;~~

~~(2) A juvenile court;~~

~~(3) A juvenile probation department;~~

~~(4) A prosecuting attorney;~~

~~(5) A defense attorney;~~

~~(6) A detention center;~~

~~(7) An agency which provides child welfare services;~~

~~(8) A public or private school;~~

~~(9) A person to whom, or public or private agency to which, the custody of a child has been committed;~~

~~(10) The Attorney General;~~

~~(11) The Division of Child and Family Services;~~

~~(12) The Youth Parole Bureau; and~~

~~(13) Any legislative committee for the oversight of matters relating to juveniles.~~

Sec. 2. ~~[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 this section and NRS 62H.025, 432B.165, 432B.175 and 432B.512, information 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 other than a juvenile court, for in camera inspection only, unless the court determines 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 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 the information is reasonably necessary to promote the safety, permanency and well being of the child;~~

~~(i) A person who files or 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 and the 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 and the 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 and 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 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 and the 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;~~

~~(g) 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 and the 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 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 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 176.125 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;~~

~~(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; or~~

~~(aa) The Committee to Review Suicide Fatalities created by NRS 439.5104.~~

~~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 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~~

1 ~~whatever precautions it determines are reasonably necessary to protect the identity~~
2 ~~and safety of any person who reports child abuse or neglect and to protect any other~~
3 ~~person if the agency which provides child welfare services reasonably believes that~~
4 ~~disclosure of the information would cause a specific and material harm to an~~
5 ~~investigation of the alleged abuse or neglect of a child or the life or safety of any~~
6 ~~person.~~

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

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

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

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

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

39 ~~10. Any person, except for:~~

40 ~~(a) A district attorney or other law enforcement officer initiating legal~~
41 ~~proceedings; or~~

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

46 ~~who is provided with information maintained by an agency which provides child~~
47 ~~welfare services and further disseminates this information, or who makes this~~
48 ~~information public, is guilty of a gross misdemeanor.~~

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

~~12. An agency which provides child welfare services shall adopt rules, policies or regulations to carry out the provisions of this section.~~ (Deleted by amendment.)

Sec. 3. This act becomes effective on July 1, 2015.