

Amendment No. 174

Assembly Amendment to Assembly Bill No. 236

(BDR 38-838)

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

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

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) 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.

MKM/BJF



Date: 4/10/2017

A.B. No. 236—Authorizes an agency which provides child welfare services to obtain the education records of certain pupils. (BDR 38-838)



ASSEMBLY BILL NO. 236—COMMITTEE ON
HEALTH AND HUMAN SERVICES

FEBRUARY 24, 2017

Referred to Committee on Health and Human Services

SUMMARY—Authorizes an agency which provides child welfare services to obtain the education records of certain pupils. (BDR 38-838)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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 child welfare; authorizing ~~certain employees~~ ***the director*** of an agency which provides child welfare services ***or certain designees*** to request the education records of a pupil who is in the custody of the agency; requiring a public or private school or school district to comply with such a request; providing ~~a penalty~~ ***that the board of trustees of a school district, the governing body of a charter school or the governing body of a private school may be joined as a party in a proceeding concerning the protection of a child for failing to comply with such a request;*** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing state and federal law prohibits a public school from releasing the education records of a pupil without the written consent of the parent of the pupil, except in certain circumstances. (20 U.S.C. § 1232g; NRS 392.029) Federal law creates an exception to that prohibition for a representative of a state or local child welfare agency who has a right to access a pupil's case plan. (20 U.S.C. § 1232g(b)(1)(L)) ***Section 1*** of this bill authorizes ~~an employee~~ ***the director*** of an agency which provides child welfare services ***or his or her designee*** who ~~has access to~~ ***is responsible for*** the ***supervision of the*** case plan of a child in the custody of the agency to request from a public or private school or school district any ***education*** records concerning the child. ***Section 1*** also prohibits ~~an agency or employee~~ ***a person*** who requests such ***education*** records from disclosing the records except as authorized by law. ***If such a request for education records is made, section 1 requires the agency which provides child welfare services and the board of trustees of the school district, the governing body of the charter school or the governing body of the private school, as applicable, to enter into a memorandum of understanding which sets forth the terms for use of the education records and any required training concerning federal law governing such use. Sections 6 and 7 of this bill require a public or private school or school district to comply with such a request, and provide that any*** ~~willful~~ ***failure to comply*** ~~is punishable as a misdemeanor~~ ***may result in the board of trustees or governing body, as applicable, being joined as a party in a proceeding concerning the protection of the child.***

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

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

3 1. ~~1. An employee~~ The director of an agency which provides child welfare
4 services or a designee thereof who ~~has access to~~ is responsible for the
5 supervision of the case plan maintained for a child in the custody of the agency
6 may request from a public or private school or school district any education
7 records, including, without limitation, electronic education records, maintained
8 by the school or school district concerning the child.

9 2. ~~An agency which provides child welfare services or an employee thereof~~
10 A person who requests education records pursuant to subsection 1 shall not
11 disclose the education records except to the extent authorized by applicable
12 federal and state laws and regulations, including, without limitation, 20 U.S.C. §
13 1232g and 34 C.F.R Part 99.

14 3. If education records are requested pursuant to subsection 1, the agency
15 which provides child welfare services requesting the education records and the
16 board of trustees of the school district in which the school is located, the
17 governing body of the charter school or the governing body of the private school,
18 as applicable, must enter into a memorandum of understanding concerning the
19 use of such education records which must set forth, without limitation:

20 (a) The manner in which the education records will be used;

21 (b) What constitutes misuse of the education records, which would result in
22 revocation of any access by the agency to such education records; and

23 (c) The required training concerning the Family Educational Rights and
24 Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant
25 thereto.

26 4. As used in this section:

27 (a) "Education records" has the meaning ascribed to it in 20 U.S.C. §
28 1232g(a)(4).

29 (b) "Private school" has the meaning ascribed to it in NRS 394.103.

30 ~~(b)~~ (c) "Public school" has the meaning ascribed to it in NRS 385.007.

31 **Sec. 2.** NRS 432.032 is hereby amended to read as follows:

32 432.032 The Division, in consultation with each agency which provides child
33 welfare services, shall adopt regulations for the administration of NRS 432.010 to
34 432.085, inclusive, and section 1 of this act, which are binding upon all recipients
35 and local units.

36 **Sec. 3.** NRS 432.035 is hereby amended to read as follows:

37 432.035 1. To safeguard and restrict the use or disclosure of any
38 information concerning applicants for and recipients of services for child welfare to
39 purposes directly connected to the administration of NRS 432.010 to 432.085,
40 inclusive, and section 1 of this act, by the Division, pursuant to the applicable
41 provisions of the Social Security Act, the Division shall, in consultation with each
42 agency which provides child welfare services, establish and enforce reasonable
43 regulations governing the custody, use and preservation of the records, files and
44 communications filed with the Division and any agency which provides child
45 welfare services.

46 2. Whenever, pursuant to the provisions of law or regulations of the Division,
47 names and addresses of, or information concerning, applicants for and recipients of

services for child welfare are 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 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. 4. 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. 5. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285,

571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 1 of this act*, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 6. NRS 392.029 is hereby amended to read as follows:

392.029 1. If a parent or legal guardian of a pupil requests the education records of the pupil, a public school shall comply with the provisions of 20 U.S.C. § 1232g(a) and 34 C.F.R. Part 99.

2. If a parent or legal guardian of a pupil reviews the education records of the pupil and requests an amendment or other change to the education records, a public school shall comply with the provisions of 20 U.S.C. § 1232g(a) and 34 C.F.R. Part 99.

3. Except as otherwise provided in 20 U.S.C. § 1232g(b), a public school shall not release the education records of a pupil to a person, agency or organization without the written consent of the parent or legal guardian of the pupil.

4. If a public school administers a program which includes a survey, analysis or evaluation that is designed to elicit the information described in 20 U.S.C. § 1232h, it must comply with the provisions of that section.

5. A right accorded to a parent or legal guardian of a pupil pursuant to the provisions of this section devolves upon the pupil on the date on which the pupil attains the age of 18 years.

6. A public school shall, at least annually, provide to each pupil who is at least 18 years of age and to a parent or legal guardian of each pupil who is not at least 18 years of age, written notice of his or her rights pursuant to this section.

7. The provisions of this section:

(a) Are intended to ensure that each public school complies with the provisions of 20 U.S.C. §§ 1232g and 1232h;

(b) Must, to the extent possible, be construed in a manner that is consistent with 20 U.S.C. §§ 1232g and 1232h, and the regulations adopted pursuant thereto;

(c) Apply to a public school regardless of whether the school receives money from the Federal Government; and

(d) Do not impair any right, obligation or prohibition established pursuant to chapter 432B of NRS.

8. The State Board may adopt such regulations as are necessary to ensure that public schools comply with the provisions of this section.

9. ~~As soon as practicable after~~ Upon receiving a request for education records pursuant to section 1 of this act, a public school or school district shall, within 10 school days or by the date of a scheduled court hearing which affects the child, whichever is earlier, provide the requested education records to the ~~employee of the agency which provides child welfare services~~ person who made the request. A member of the ~~The board of trustees for employee of a school district who willfully fails to take any action necessary for the public school or school district~~ or the governing body of a charter school, as applicable, may be joined as a party in a proceeding concerning the protection of a child pursuant to NRS 432B.4655 for failure to comply with the requirements of this subsection, is guilty of a misdemeanor.

10. As used in this section ~~unless the context otherwise requires,~~ "education" ~~is~~

~~(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).

Sec. 7. Chapter 394 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~As soon as practicable after~~ Upon receiving a request for education records pursuant to section 1 of this act, a private school shall, within 10 school days or by the date of a scheduled court hearing which affects the child, whichever is earlier, provide the requested education records to the ~~employee of the agency which provides child welfare services~~ person who made the request.

2. ~~A member of the~~ The governing body for employee of a private school ~~who willfully fails to take any action necessary for the private school~~ may be

1 joined as a party in a proceeding concerning the protection of the child pursuant
2 to NRS 432B.4655 for failure to comply with the requirements of subsection 1.
3 ~~is guilty of a misdemeanor.~~

4 3. As used in this section, ~~“agency which provides child welfare services”~~
5 ~~has the meaning ascribed to it in NRS 432B.030.~~ “education records” has the
6 meaning ascribed to it in 20 U.S.C. § 1232g(a)(4).

7 Sec. 8. This act becomes effective on July 1, 2017.