

Amendment No. 573

Assembly Amendment to Assembly Bill No. 346 First Reprint (BDR 38-283)

Proposed by: Assemblywoman Joiner

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

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 346 R1 (§ 7.2).

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: 4/21/2017

A.B. No. 346—Enacts requirements relating to certain providers of child care.
(BDR 38-283)



ASSEMBLY BILL NO. 346--ASSEMBLYWOMAN JOINER

MARCH 20, 2017

Referred to Committee on Health and Human Services

SUMMARY—Enacts requirements relating to certain providers of child care.
(BDR 38-283)

FISCAL NOTE: Effect on Local Government: No.
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 child care; ~~requiring~~ authorizing the operator of a small child care establishment to register with the Division of Welfare and Supportive Services of the Department of Health and Human Services; requiring certain persons who are employed at or otherwise present at a registered small child care establishment to undergo a criminal background check ~~if~~ under certain circumstances; authorizing the Division of Public and Behavioral Health of the Department to collect from a child care facility or small child care establishment the costs relating to an investigation of a violation; requiring the licensee of a child care facility or the operator of a registered small child care establishment to ensure that each child at the ~~child care~~ facility or establishment wears a helmet while using certain devices; providing for the inspection of such an establishment; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines the term "child care facility" to mean an establishment that provides child care to five or more children for compensation and certain other child care establishments. (NRS 432A.024) **Section 2** of this bill defines the term "small child care establishment" to mean an establishment that furnishes child care to not more than four children unrelated to the operator for compensation, outside the home and the presence of the parent or guardian of any of the children and on a regular basis for at least 3 weeks. **Section 3** of this bill ~~requires~~ authorizes a person or governmental entity that wishes to operate or operates a small child care establishment to register with the Division of Welfare and Supportive Services of the Department of Health and Human Services and submit certain information to the Division concerning employees and certain residents of the establishment. ~~Section 9 of this bill authorizes the Division of Public and Behavioral Health of the Department to seek an injunction against any person or governmental entity that operates a small child care establishment without registering with the Division of Welfare and Supportive Services. Section 10 of this bill makes it a misdemeanor to operate a small child care establishment without registering with the Division of Welfare and Supportive Services.~~

Existing law requires every applicant for and holder of a license to operate a child care facility, employee of such an applicant or licensee and certain adult residents of a child care

facility to undergo a criminal background check conducted by the Division at least once every 5 years. (NRS 432A.170, 432A.175) If a criminal background check reveals that such a person has been convicted of certain crimes, the person must be terminated or otherwise prevented from having direct contact with children at the facility. (NRS 432A.1775) **Sections 7.2-7.6** of this bill make these requirements applicable to operators, employees and certain adult residents of small child care establishments. ~~that are registered with the Division of Welfare and Supportive Services.~~ **Section 7.8** of this bill also requires an operator of ~~such a small child care establishment~~ to maintain certain records relating to those background checks. ~~Section 3 prohibits a person who has been convicted of certain crimes from operating a small child care establishment.~~

Section 7 of this bill authorizes the State Board of Health to adopt regulations to enforce the ~~requirements for~~ **provisions relating to** registration and background checks and to ensure the safe operation of **registered** small child care establishments. The Division of Public and Behavioral Health is authorized to impose a fine against any **registered** small child care establishment that violates the requirements or regulations. (NRS 432A.190)

Section 5 of this bill requires the licensee of a child care facility or the operator of a **registered** small child care establishment to ensure that each child at the facility or establishment wears a helmet while riding a bicycle, tricycle, skateboard, scooter, roller skates or any other similar device or toy that renders the child mobile.

Existing law authorizes any authorized member or employee of the Division to enter and inspect any building or premises of a child care facility or the area of operation of an outdoor youth program at any time to secure compliance with or prevent a violation of applicable law. **Section 8** of this bill extends those inspection provisions to include small child care establishments. ~~whether registered or not.~~ If a complaint against a child care facility or small child care establishment is substantiated, **section 4.5** of this bill authorizes the Division to collect from the facility or establishment the costs of the Division relating to the violation, including the costs of any necessary inspection or investigation.

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

Section 1. Chapter 432A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *"Small child care establishment" means an establishment that furnishes care to not more than four children under 18 years of age who are not related to the operator of the establishment within the fourth degree of consanguinity or affinity:*

- 1. For monetary compensation;*
- 2. Outside the home and the presence of the parents or guardians of any of the children; and*
- 3. For at least 6 hours each day, at least 4 days each week and more than 3 consecutive weeks.*

Sec. 3. *1. A person, state or local government unit or agency thereof that wishes to operate **or operates** a small child care establishment ~~must, before furnishing care to any children,~~ **may** register the small child care establishment with the Division of Welfare and Supportive Services of the Department by submitting to the Division of Welfare and Supportive Services on the Internet website of the Division of Welfare and Supportive Services the following information:*

(a) The name, address and contact information of the ~~prospective~~ operator of the small child care establishment;

(b) The name and address of the small child care establishment;

(c) An affirmation that the operator of the small child care establishment is in compliance with subsection 2; and

1 (d) Such additional information as the Division of Welfare and Supportive
2 Services deems necessary.

3 2. A person shall not serve as the operator of a registered small child care
4 establishment if the person has been convicted of a crime listed in subsection 2 of
5 NRS 432A.170 or has had a substantiated report of child abuse or neglect made
6 against him or her.

7 Sec. 4. (Deleted by amendment.)

8 Sec. 4.5. 1. If a complaint against a child care facility, a small child care
9 establishment ~~or~~ or a person who operates a child care facility without a license
10 or a person who operates a small child care establishment ~~without registering in~~
11 ~~accordance with section 3 of this act~~, whether registered or not, is substantiated,
12 the Division may charge and collect from the facility, establishment or person the
13 actual cost incurred by the Division relating to the violation, including the actual
14 cost of conducting an inspection or investigation of the facility, establishment or
15 person.

16 2. Any money collected pursuant to subsection 1 may be used by the
17 Division to administer and carry out the provisions of this chapter and the
18 regulations adopted pursuant thereto.

19 Sec. 5. The licensee of a child care facility or the operator of a registered
20 small child care establishment shall ensure that each child at the facility or
21 establishment, as applicable, wears a helmet while using a bicycle, tricycle,
22 skateboard, scooter, roller skates or any other similar device or toy that renders
23 the child mobile.

24 Sec. 6. NRS 432A.020 is hereby amended to read as follows:

25 432A.020 As used in this chapter, unless the context otherwise requires, the
26 words and terms defined in NRS 432A.0205 to 432A.029, inclusive, and section 2
27 of this act have the meanings ascribed to them in those sections.

28 Sec. 7. NRS 432A.077 is hereby amended to read as follows:

29 432A.077 1. The Board shall adopt:

30 (a) Licensing standards for child care facilities.

31 (b) In consultation with the State Fire Marshal, plans and requirements to
32 ensure that each child care facility and its staff is prepared to respond to
33 emergencies, including, without limitation:

34 (1) The conducting of fire drills on a monthly basis;

35 (2) The adoption of plans to respond to natural disasters and emergencies
36 other than those involving fire; and

37 (3) The adoption of plans to provide for evacuation of child care facilities
38 in an emergency.

39 (c) Any regulations necessary to carry out the provisions of section 3 of this
40 act or to ensure the safe operation of small child care establishments.

41 (d) Such other regulations as it deems necessary or convenient to carry out the
42 provisions of this chapter.

43 2. The Board shall require that the practices and policies of each child care
44 facility provide adequately for the protection of the health and safety and the
45 physical, moral and mental well-being of each child accommodated in the facility.

46 3. If the Board finds that the practices and policies of a child care facility are
47 substantially equivalent to those required by the Board in its regulations, it may
48 waive compliance with a particular standard or other regulation by that facility.

49 Sec. 7.2. NRS 432A.170 is hereby amended to read as follows:

50 432A.170 1. The Division may, upon receipt of an application for a license
51 to operate a child care facility, conduct an investigation into the:

52 (a) Buildings or premises of the facility and, if the application is for an outdoor
53 youth program, the area of operation of the program;

(b) Qualifications and background of the applicant or the employees of the applicant;

(c) Method of operation for the facility; and

(d) Policies and purposes of the applicant.

2. ~~[(b)]~~ Subject to the provisions of subsection 7, the Division shall secure from appropriate law enforcement agencies information on the background and personal history of every applicant, licensee ~~[(b)]~~, operator of a small child care establishment, employee of an applicant, ~~[(b)]~~ licensee ~~[(b)]~~ or ~~[(b)]~~ small child care establishment, resident of a child care facility or small child care establishment who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, or participant in an outdoor youth program who is 18 years of age or older, to determine whether the person has been convicted of:

(a) Murder, voluntary manslaughter or mayhem;

(b) Any other felony involving the use of a firearm or other deadly weapon;

(c) Assault with intent to kill or to commit sexual assault or mayhem;

(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(e) Abuse or neglect of a child or contributory delinquency;

(f) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(g) Abuse, neglect, exploitation, isolation or abandonment of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct; or

(h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years.

3. ~~[(b)]~~ Subject to the provisions of subsection 7, the Division shall request information concerning every applicant, licensee ~~[(b)]~~, operator of a small child care establishment, employee of an applicant, ~~[(b)]~~ licensee ~~[(b)]~~ or ~~[(b)]~~ small child care establishment, resident of a child care facility or small child care establishment who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, or participant in an outdoor youth program who is 18 years of age or older, from:

(a) The Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report pursuant to NRS 432A.175; and

(b) The Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against any of them.

4. The Division may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

5. The information required to be obtained pursuant to subsections 2 and 3 must be requested concerning an:

(a) Employee of an applicant, ~~[(b)]~~ licensee ~~[(b)]~~ or small child care establishment, resident of a child care facility or small child care establishment who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, or participant in an outdoor youth program who is 18 years of age or older not later than 3 days after the

employee is hired, the residency begins or the participant begins participating in the program, and then at least once every 5 years thereafter.

(b) Applicant at the time that an application is submitted for licensure, and then at least once every 5 years after the license is issued.

(c) Operator of a small child care establishment before the operator begins operating the establishment, and then at least once every 5 years after the establishment begins operating.

6. A person who is required to submit to an investigation required pursuant to this section shall not have contact with a child in a child care facility without supervision before the investigation of the background and personal history of the person has been conducted.

7. The provisions of subsections 2 and 3 apply to a small child care establishment and an operator of a small child care establishment if the operator of such an establishment has applied or registered with the Division of Welfare and Supportive Services of the Department pursuant to section 3 of this act.

Sec. 7.4. NRS 432A.175 is hereby amended to read as follows:

432A.175 1. Subject to the provisions of subsection 2:

(a) Every applicant for a license to operate a child care facility, licensee ~~and~~, *operator of a small child care establishment*, employee of ~~such~~ an applicant, ~~or~~ licensee ~~and every~~ *or small child care establishment*, resident of a child care facility *or small child care establishment* who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, or participant in an outdoor youth program who is 18 years of age or older, shall submit to the Division, or to the person or agency designated by the Division, to enable the Division to conduct an investigation pursuant to NRS 432A.170, a:

~~(1)~~ (1) Complete set of fingerprints and a written authorization for the Division or its designee to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

~~(2)~~ (2) Written statement detailing any prior criminal convictions; and

~~(3)~~ (3) Written authorization for the Division to obtain any information that may be available from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100.

~~(b)~~ (b) If an employee of an applicant for a license to operate a child care facility, ~~or~~ licensee ~~or~~ *small child care establishment*, a resident of a child care facility *or small child care establishment* who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, or participant in an outdoor youth program who is 18 years of age or older, has been convicted of any crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect filed against him or her, the Division shall immediately notify the applicant, ~~or~~ licensee ~~or~~ *small child care establishment* who shall then comply with the provisions of NRS 432A.1755.

~~(c)~~ (c) An applicant for a license to operate a child care facility, ~~or~~ licensee *or operator of a small child care establishment* shall notify the Division as soon as practicable but not later than 24 hours after hiring an employee, beginning the residency of a resident who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, or beginning the participation of a participant in an outdoor youth program who is 18 years of age or older.

~~(d)~~ (d) An applicant for a license to operate a child care facility, ~~licensee~~ *or operator of a small child care establishment* shall notify the Division within 2 days after receiving notice that:

~~(1)~~ (1) The applicant, licensee *or operator*, an employee of the applicant, ~~licensee~~ *or small child care establishment*, a resident of the child care facility *or small child care establishment* who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, or participant in an outdoor youth program who is 18 years of age or older, or a facility, *establishment* or program operated by the applicant, ~~licensee~~ *or operator* is the subject of a lawsuit or any disciplinary proceeding; or

~~(2)~~ (2) The applicant, ~~licensee~~ *or operator* or an employee, a resident or a participant has been charged with a crime listed in subsection 2 of NRS 432A.170 or is being investigated for child abuse or neglect.

2. The provisions of this section apply to a small child care establishment and an operator of a small child care establishment if the operator of such an establishment has applied or registered with the Division of Welfare and Supportive Services of the Department pursuant to section 3 of this act.

Sec. 7.6. NRS 432A.1755 is hereby amended to read as follows:

432A.1755 1. Subject to the provisions of subsection 2;

(a) Upon receiving information pursuant to NRS 432A.175 from the Central Repository for Nevada Records of Criminal History or the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 or evidence from any other source that an employee of an applicant for a license to operate a child care facility, ~~licensee~~ *or a small child care establishment*, a resident of a child care facility *or small child care establishment* who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, or participant in an outdoor youth program who is 18 years of age or older has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him or her, the applicant, ~~licensee~~ *or operator of the small child care establishment* shall terminate the employment of the employee or remove the resident from the facility *or establishment* or participant from the outdoor youth program after allowing the employee, resident or participant time to correct the information as required pursuant to ~~subsection 2.~~

~~2.~~ paragraph (b).

(b) If an employee, resident or participant believes that the information provided to the applicant, ~~licensee~~ *or operator* pursuant to ~~subsection 1.~~ paragraph (a) is incorrect, the employee, resident or participant must inform the applicant, ~~licensee~~ *or operator* immediately. The applicant, ~~licensee~~ *or operator* shall give any such employee, resident or participant 30 days to correct the information.

(c) During any period in which an employee, resident or participant seeks to correct information pursuant to ~~subsection 2.~~ paragraph (b), it is within the discretion of the applicant, ~~licensee~~ *or operator* whether to allow the employee, resident or participant to continue to work for or reside at the child care facility *or small child care establishment* or participate in the outdoor youth program, as applicable, except that the employee, resident or participant shall not have contact with a child without supervision during such a period.

2. The provisions of this section apply to a small child care establishment and an operator of a small child care establishment if the operator of such an establishment has applied or registered with the Division of Welfare and Supportive Services of the Department pursuant to section 3 of this act.

1 **Sec. 7.8.** NRS 432A.1785 is hereby amended to read as follows:

2 432A.1785 1. ~~Each~~ Subject to the provisions of subsection 3, each
3 applicant for a license to operate a child care facility, ~~and~~ licensee and operator
4 of a small child care establishment shall maintain records of the information
5 concerning ~~the~~ employees of the child care facility or small child care
6 establishment and any residents of the child care facility or small child care
7 establishment who are 18 years of age or older, other than residents who remain
8 under the jurisdiction of a court pursuant to NRS 432B.594, or participants in any
9 outdoor youth program who are 18 years of age or older that is collected pursuant
10 to NRS 432A.170 and 432A.175, including, without limitation:

11 (a) A copy of the fingerprints that were submitted to the Central Repository for
12 Nevada Records of Criminal History;

13 (b) Proof that the applicant, ~~or~~ licensee or operator submitted fingerprints to
14 the Central Repository for Nevada Records of Criminal History; and

15 (c) The written authorization to obtain information from the Central Repository
16 and the Statewide Central Registry for the Collection of Information Concerning
17 the Abuse or Neglect of a Child established pursuant to NRS 432.100.

18 2. The records maintained pursuant to subsection 1 must be:

19 (a) Maintained for the period of the employee's employment with or the
20 resident's presence at the child care facility or small child care establishment or
21 the participant's presence in the outdoor youth program; and

22 (b) Made available for inspection by the Division at any reasonable time and
23 copies thereof must be furnished to the Division upon request.

24 3. The provisions of this section apply to a small child care establishment
25 and an operator of a small child care establishment if the operator of such an
26 establishment has registered with the Division of Welfare and Supportive Services
27 of the Department pursuant to section 3 of this act.

28 **Sec. 8.** NRS 432A.180 is hereby amended to read as follows:

29 432A.180 1. Any authorized member or employee of the Division may
30 enter and inspect any building or premises of a child care facility or a small child
31 care establishment, whether registered or not, or the area of operation of an
32 outdoor youth program at any time to secure compliance with or prevent a violation
33 of any provision of this chapter.

34 2. The State Fire Marshal or a designee of the State Fire Marshal shall, at
35 least annually:

36 (a) Enter and inspect every building or premises of a child care facility, on
37 behalf of the Division; and

38 (b) Observe and make recommendations regarding the drills conducted
39 pursuant to NRS 432A.077,

40 to secure compliance with standards for safety from fire and other emergencies.

41 3. The Chief Medical Officer or a designee of the Chief Medical Officer shall
42 enter and inspect at least annually, every building or premises of a child care
43 facility and area of operation of an outdoor youth program, on behalf of the
44 Division, to secure compliance with standards for health and sanitation.

45 4. The annual inspection of any child care facility which occasionally or
46 regularly has physical custody of children pursuant to the order of a court must
47 include, without limitation, an inspection of all areas where food is prepared and
48 served, bathrooms, areas used for sleeping, common areas and areas located
49 outdoors that are used by children at the child care facility. The Chief Medical
50 Officer shall publish reports of the inspections and make them available for public
51 inspection upon request.

Sec. 9. ~~NRS 432A.210 is hereby amended to read as follows:~~
~~432A.210 1. Except as otherwise provided in subsection 1 of NRS~~
~~432A.121, the Division may bring an action in the name of the State to enjoin any~~
~~person, state or local government unit or agency thereof from operating or~~
~~maintaining any [child].~~

~~(a) Child care facility [;~~
~~(a) Without] without first obtaining a license therefor [; or~~
~~(b) After] or after his or her license has been revoked or suspended by the~~
~~Division.~~

~~(b) Small child care establishment without registering with the Division of~~
~~Welfare and Supportive Services of the Department pursuant to section 3 of this~~
~~act.~~

~~2. It is sufficient in such an action to allege that the defendant did, on a certain~~
~~date and in a certain place, operate and maintain the facility or establishment~~
~~without a license [;] or the proper registration, as applicable.] (Deleted by~~
~~amendment.)~~

Sec. 10. NRS 432A.220 is hereby amended to read as follows:
 432A.220 Any person who operates a child care facility without a license
 issued pursuant to NRS 432A.131 to 432A.220, inclusive, *and sections 3, 4.5 and 5*
of this act for a small child care establishment without registering pursuant to
~~section 3 of this act~~ is guilty of a misdemeanor.

Sec. 11. (Deleted by amendment.)

Sec. 12. This act becomes effective on July 1, 2017.