

Amendment No. 908

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

Proposed by: Senator Spearman**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 R2 (§ 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: 5/23/2017

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; 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 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 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 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.

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 7 of this bill authorizes the State Board of Health to adopt regulations to enforce the 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, triocycle, 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 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 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

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

2. A person shall not serve as the operator of a registered small child care establishment if the person 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.

1 Sec. 4. (Deleted by amendment.)

2 Sec. 4.5. 1. *If a complaint against a child care facility, a small child care*
3 *establishment or a person who operates a child care facility without a license, or*
4 *a person who operates a small child care establishment, whether registered or*
5 *not, is substantiated, the Division may charge and collect from the facility,*
6 *establishment or person the actual cost incurred by the Division relating to the*
7 *violation, including the actual cost of conducting an inspection or investigation*
8 *of the facility, establishment or person.*

9 2. *Any money collected pursuant to subsection 1 may be used by the*
10 *Division to administer and carry out the provisions of this chapter and the*
11 *regulations adopted pursuant thereto.*

12 Sec. 5. ~~*The licensee of a child care facility or the operator of a registered*~~
13 ~~*small child care establishment shall ensure that each child at the facility or*~~
14 ~~*establishment, as applicable, wears a helmet while using a bicycle, tricycle,*~~
15 ~~*skateboard, scooter, roller skates or any other similar device or toy that renders*~~
16 ~~*the child mobile.*~~ (Deleted by amendment.)

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

18 432A.020 As used in this chapter, unless the context otherwise requires, the
19 words and terms defined in NRS 432A.0205 to 432A.029, inclusive, *and section 2*
20 *of this act* have the meanings ascribed to them in those sections.

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

22 432A.077 1. The Board shall adopt:

23 (a) Licensing standards for child care facilities.

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

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

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

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

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

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

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

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

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

43 432A.170 1. The Division may, upon receipt of an application for a license
44 to operate a child care facility, conduct an investigation into the:

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

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

49 (c) Method of operation for the facility; and

50 (d) Policies and purposes of the applicant.

51 2. ~~*The*~~ *Subject to the provisions of subsection 7, the* Division shall secure
52 from appropriate law enforcement agencies information on the background and
53 personal history of every applicant, licensee ~~*for*~~, *operator of a small child care*

1 *establishment*, employee of an applicant , ~~for~~ licensee ~~or~~ ~~every~~ *small child*
2 *care establishment*, resident of a child care facility *or small child care*
3 *establishment* who is 18 years of age or older, other than a resident who remains
4 under the jurisdiction of a court pursuant to NRS 432B.594, or participant in an
5 outdoor youth program who is 18 years of age or older, to determine whether the
6 person has been convicted of:

- 7 (a) Murder, voluntary manslaughter or mayhem;
- 8 (b) Any other felony involving the use of a firearm or other deadly weapon;
- 9 (c) Assault with intent to kill or to commit sexual assault or mayhem;
- 10 (d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent
11 exposure or any other sexually related crime;
- 12 (e) Abuse or neglect of a child or contributory delinquency;
- 13 (f) A violation of any federal or state law regulating the possession,
14 distribution or use of any controlled substance or any dangerous drug as defined in
15 chapter 454 of NRS;
- 16 (g) Abuse, neglect, exploitation, isolation or abandonment of older persons or
17 vulnerable persons, including, without limitation, a violation of any provision of
18 NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that
19 prohibits the same or similar conduct; or
- 20 (h) Any offense involving fraud, theft, embezzlement, burglary, robbery,
21 fraudulent conversion or misappropriation of property within the immediately
22 preceding 7 years.

23 3. ~~The~~ *Subject to the provisions of subsection 7, the* Division shall request
24 information concerning every applicant, licensee ~~or~~ , *operator of a small child*
25 *care establishment*, employee of an applicant , ~~for~~ licensee ~~or~~ ~~every~~ *small*
26 *child care establishment*, resident of a child care facility *or small child care*
27 *establishment* who is 18 years of age or older, other than a resident who remains
28 under the jurisdiction of a court pursuant to NRS 432B.594, or participant in an
29 outdoor youth program who is 18 years of age or older, from:

30 (a) The Central Repository for Nevada Records of Criminal History for
31 submission to the Federal Bureau of Investigation for its report pursuant to NRS
32 432A.175; and

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

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

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

41 (a) Employee of an applicant , ~~for~~ licensee ~~or~~ *small child care*
42 *establishment*, resident of a child care facility *or small child care establishment*
43 who is 18 years of age or older, other than a resident who remains under the
44 jurisdiction of a court pursuant to NRS 432B.594, or participant in an outdoor
45 youth program who is 18 years of age or older not later than 3 days after the
46 employee is hired, the residency begins or the participant begins participating in the
47 program, and then at least once every 5 years thereafter.

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

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

~~(a)~~ (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;

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

~~(c)~~ (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.

~~(d)~~ (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.

~~(e)~~ (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.

~~(f)~~ (d) 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 within 2 days after receiving notice that:

~~(g)~~ (1) The applicant, licensee or *operator*, an employee of the applicant, ~~or~~ 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

1 older, or a facility , *establishment* or program operated by the applicant , ~~for~~
2 licensee ~~or operator~~ is the subject of a lawsuit or any disciplinary proceeding; or
3 ~~for~~ (2) The applicant , ~~for~~ licensee ~~or operator~~ or an employee, a resident
4 or a participant has been charged with a crime listed in subsection 2 of NRS
5 432A.170 or is being investigated for child abuse or neglect.

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

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

11 432A.1755 1. *Subject to the provisions of subsection 2:*

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

28 ~~2. paragraph (b).~~

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

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

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

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

47 432A.1785 1. ~~Each~~ *Subject to the provisions of subsection 3, each*
48 applicant for a license to operate a child care facility , ~~and~~ licensee *and operator*
49 *of a small child care establishment* shall maintain records of the information
50 concerning ~~the~~ employees *of the child care facility or small child care*
51 *establishment* and any residents of the child care facility *or small child care*
52 *establishment* who are 18 years of age or older, other than residents who remain
53 under the jurisdiction of a court pursuant to NRS 432B.594, or participants in any

1 outdoor youth program who are 18 years of age or older that is collected pursuant
2 to NRS 432A.170 and 432A.175, including, without limitation:

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

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

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

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

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

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

16 *3. The provisions of this section apply to a small child care establishment
17 and an operator of a small child care establishment if the operator of such an
18 establishment has registered with the Division of Welfare and Supportive Services
19 of the Department pursuant to section 3 of this act.*

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

21 432A.180 1. Any authorized member or employee of the Division may
22 enter and inspect any building or premises of a child care facility *or a small child
23 care establishment, whether registered or not*, or the area of operation of an
24 outdoor youth program at any time to secure compliance with or prevent a violation
25 of any provision of this chapter.

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

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

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

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

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

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

44 **Sec. 9.** (Deleted by amendment.)

45 **Sec. 10.** NRS 432A.220 is hereby amended to read as follows:

46 432A.220 Any person who operates a child care facility without a license
47 issued pursuant to NRS 432A.131 to 432A.220, inclusive, *and sections 3, 4.5 and 5
48 of this act* is guilty of a misdemeanor.

49 **Sec. 11.** (Deleted by amendment.)

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