

Amendment No. 718

Assembly Amendment to Senate Bill No. 46 First Reprint (BDR 38-131)

Proposed by: Assembly Committee on Health and Human Services

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

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	☐	Lost	☐ _____	Adopted	☐	Lost	☐ _____
Concurred In	☐	Not	☐ _____	Concurred In	☐	Not	☐ _____
Receded	☐	Not	☐ _____	Receded	☐	Not	☐ _____

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/RBL



Date: 5/16/2017

S.B. No. 46—Revises provisions governing background checks of operators, employees and certain adult residents of a child care facility.
(BDR 38-131)



SENATE BILL NO. 46—COMMITTEE ON
HEALTH AND HUMAN SERVICES(ON BEHALF OF THE DIVISION OF PUBLIC AND
BEHAVIORAL HEALTH OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES)

PREFILED NOVEMBER 16, 2016

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing background checks of operators, employees and certain adult residents of a child care facility. (BDR 38-131)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public welfare; revising provisions governing background checks of operators, employees and certain adult residents of a child care facility; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Public and Behavioral Health of the Department of Health and Human Services to identify, as part of a background check, whether an applicant for a license to operate a child care facility, an employee of the facility, ~~or~~ certain adult residents of the facility or a participant in an outdoor youth program have been convicted of certain offenses. (NRS 432A.170) A person who has been convicted of any of the listed offenses must not be issued a license to operate a child care facility or, in the case of employees, ~~or~~ residents of the facility, or participants, must be terminated or removed from the facility or program. (NRS 432A.160, 432A.1755)

The federal Child Care and Development Block Grant Act of 2014 prohibits child care facilities from employing persons convicted of certain additional offenses, unless a review process is established by the State that allows the State to determine whether a person convicted of such crimes may continue to be eligible for employment at a child care facility. (42 U.S.C. ~~§ 9858f(c)~~ §§ 9858f(c), 9858f(e)) This bill adds those offenses to align Nevada law with federal standards.

In addition, this bill authorizes the Division of Public and Behavioral Health to adopt regulations to establish a process to review evidence upon request to determine whether an employee or resident of a child care facility or certain participants in an outdoor youth program may remain employed, continue to reside or participate in the program, as applicable, despite such a conviction.

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

Section 1. NRS 432A.170 is hereby amended to read as follows:

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

(a) Buildings or premises of the facility and, if the application is for an outdoor 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. The Division shall secure from appropriate law enforcement agencies information on the background and personal history of every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility 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~~ *Any crime against a child, including, without limitation, abuse, neglect or endangerment* of a child , ~~for~~ contributory delinquency ~~or~~ *pornography involving a minor;*

(f) ~~A violation of any federal or state law regulating~~ *Arson;*

(g) *Assault;*

(h) *Battery, including, without limitation, battery which constitutes domestic violence;*

(i) *Kidnapping;*

(j) *Any offense relating to the possession or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS within the immediately preceding 5 years;*

(k) *Any offense relating to the* ~~possession,~~ distribution or ~~use~~ *manufacture* of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

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

3. The Division shall request information concerning every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility 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 or licensee, resident of a child care facility 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.

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.

Sec. 1.5. NRS 432A.1755 is hereby amended to read as follows:

432A.1755 1. ~~Upon~~ Except as otherwise provided in subsection 3, 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 or a licensee, or a resident of a child care facility 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 or licensee shall terminate the employment of the employee or remove the resident from the facility 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. If an employee, resident or participant believes that the information provided to the applicant or licensee pursuant to subsection 1 is incorrect, the employee, resident or participant must inform the applicant or licensee immediately. The applicant or licensee shall give any such employee, resident or participant 30 days to correct the information.

3. The Division may establish by regulation a process by which it may review evidence upon request to determine whether an employee of an applicant for a license to operate a child care facility or a licensee, or a resident of a child care facility 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 a 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 may remain employed or continue to reside in the facility, as applicable, despite the conviction. Any such

1 review must be conducted in a manner which does not discriminate against a
2 person in violation of 42 U.S.C. § 2000e et seq.

3 4. If a process for review is established pursuant to subsection 3, an
4 employee, resident or participant, as applicable, may request such a review in the
5 manner established by the Division. Any determination made by the Division is
6 final for purposes of judicial review.

7 5. During any period in which an employee, resident or participant seeks to
8 correct information pursuant to subsection 2, or requests a review of information
9 pursuant to subsection 4, it is within the discretion of the applicant or licensee
10 whether to allow the employee, resident or participant to continue to work for or
11 reside at the child care facility or participate in the outdoor youth program, as
12 applicable, except that the employee, resident or participant shall not have contact
13 with a child without supervision during such a period.

14 **Sec. 2.** This act becomes effective on July 1, 2017.