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FIRST REPRINT

A.B. 346

ASSEMBLY BILL NO. 346—ASSEMBLYMEN GORELOW,
MUNK, FLORES; AND MARTINEZ

MARCH 18, 2019

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing health care facilities and child care facilities. (BDR 40-846)

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 facilities; removing the prohibition on persons convicted of certain offenses relating to the use or possession of marijuana from requesting or engaging in certain activities relating to health care or the care of children; removing the prohibition on persons convicted of such crimes from operating or working in an intermediary service organization; authorizing an independent contractor who meets certain requirements to have unsupervised contact with a child at a child care facility; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person who has been convicted of certain crimes from: (1) holding a license or certificate, as applicable, to operate a child care facility, registered small child care establishment, intermediary service organization or certain medical facilities and facilities for the dependent; (2) working at an intermediary service organization or such medical facilities and facilities for the dependent as an employee, employee of a temporary employment service or independent contractor; (3) being an employee or adult resident of a child care facility or registered small child care establishment; (4) participating in an outdoor youth program; or (5) being a member of the staff of a program that primarily functions as a seasonal or temporary recreation program. (NRS 432A.160, 432A.1755, 432A.1756, 432A.190, 432A.720, 449.174, 449.4331, 449.4332) **Sections 2 and 7** of this bill remove those prohibitions for a person who has been convicted of a violation of any federal or state law regulating the possession, distribution or use of marijuana, except for a person who: (1) is employed by a child care facility operated by an agency or political subdivision of this State; or (2) has been convicted of such a violation that is punished as a felony. **Sections 2, 5, 7**



* A B 3 4 6 R 1 *

and 12 of this bill authorize the Division to establish a process by which a person who has been convicted of certain crimes related to marijuana may request that the Division set aside the conviction when determining whether the person is eligible to serve in those capacities. **Section 6** of this bill revises the list of crimes that disqualify a person from operating or working in an intermediary service organization to match the list of crimes that disqualify a person from operating or working in a medical facility or facility for the dependent.

Existing law prohibits an independent contractor from having unsupervised contact with a child at a child care facility. (NRS 432A.176) **Sections 7-9, 10.3 and 10.6** of this bill remove this prohibition for an independent contractor who passes a criminal background check and receives certain training.

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

Section 1. NRS 449.125 is hereby amended to read as follows:

449.125 1. Upon receiving information from the Central Repository for Nevada Records of Criminal History pursuant to NRS 449.123, or evidence from any other source, that an employee, employee of a temporary employment service or independent contractor of a facility, hospital, agency, program or home:

(a) Has been convicted of a crime ~~listed~~ *described* in paragraph (a) of subsection 1 of NRS 449.174 ~~and~~ *and the conviction has not been set aside pursuant to subsection 3 of that section;* or

(b) Has had a substantiated report of abuse or neglect made against him or her, if he or she is employed at a facility, hospital, agency, program or home that provides residential services to children, a psychiatric hospital that provides inpatient services to children or a psychiatric residential treatment facility,

➤ the administrator of, or the person licensed to operate, the facility, hospital, agency, program or home shall terminate the employment or contract of that person or notify the temporary employment service that its employee is prohibited from providing services for the facility, hospital, agency, program or home after allowing the person time to correct the information as required pursuant to subsection 2.

2. If an employee, employee of a temporary employment service or independent contractor believes that the information provided by the Central Repository is incorrect, the employee, employee of the temporary employment service or independent contractor may immediately inform the facility, hospital, agency, program or home or temporary employment service. The facility, hospital, agency, program, home or temporary employment service that is so informed shall give the employee, employee of the temporary employment service or independent contractor a reasonable amount of time of not less than 30 days to correct the



information received from the Central Repository before terminating the employment or contract of the person pursuant to subsection 1.

3. A facility, hospital, agency, program or home that has complied with NRS 449.123 may not be held civilly or criminally liable based solely upon the ground that the facility, hospital, agency, program or home allowed an employee, employee of a temporary employment service or independent contractor to work:

(a) Before it received the information concerning the employee, employee of the temporary employment service or independent contractor from the Central Repository, except that an employee, employee of the temporary employment service or independent contractor shall not have contact with a child without supervision before such information is received;

(b) During the period required pursuant to subsection 2 to allow the employee, employee of the temporary employment service or independent contractor to correct that information, except that an employee, employee of the temporary employment service or independent contractor shall not have contact with a child without supervision during such period;

(c) Based on the information received from the Central Repository, if the information received from the Central Repository was inaccurate; or

(d) Any combination thereof.

➔ A facility, hospital, agency, program or home may be held liable for any other conduct determined to be negligent or unlawful.

Sec. 2. NRS 449.174 is hereby amended to read as follows:

449.174 1. In addition to the grounds listed in NRS 449.160, the Division may deny a license to operate a facility, hospital, agency, program or home to an applicant or may suspend or revoke the license of a licensee to operate such a facility, hospital, agency, program or home if:

(a) The applicant or licensee has been convicted of:

(1) Murder, voluntary manslaughter or mayhem;

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

(3) Sexual assault, statutory sexual seduction, incest, lewdness or indecent exposure, or any other sexually related crime that is punished as a felony;

(4) Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punished as a misdemeanor, within the immediately preceding 7 years;

(5) A crime involving domestic violence that is punished as a felony;

(6) A crime involving domestic violence that is punished as a misdemeanor, within the immediately preceding 7 years;



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

(8) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance *other than marijuana*, or any dangerous drug as defined in chapter 454 of NRS, within the immediately preceding 7 years;

(9) *A violation of any federal or state law regulating the possession, distribution or use of marijuana that is punishable as a felony, within the immediately preceding 7 years;*

(10) 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;

~~[(10)]~~ (11) A violation of any provision of law relating to the State Plan for Medicaid or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years;

~~[(11)]~~ (12) A violation of any provision of NRS 422.450 to 422.590, inclusive;

~~[(12)]~~ (13) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;

~~[(13)]~~ (14) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years;

~~[(14)]~~ (15) Any other felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon; or

~~[(15)]~~ (16) An attempt or conspiracy to commit any of the offenses listed in this paragraph, within the immediately preceding 7 years;

(b) The licensee has, in violation of NRS 449.125, continued to employ a person who has been convicted of a crime ~~listed~~ *described* in paragraph (a); or

(c) The applicant or licensee has had a substantiated report of child abuse or neglect made against him or her and if the facility, hospital, agency, program or home provides residential services to children, is a psychiatric hospital that provides inpatient services to children or is a psychiatric residential treatment facility.

2. In addition to the grounds listed in NRS 449.160, the Division may suspend or revoke the license of a licensee to operate an agency to provide personal care services in the home, an agency to provide nursing in the home, a community health worker pool or a peer support recovery organization if the licensee has, in violation of NRS 449.125, continued to employ a person who has been



convicted of a crime ~~[listed]~~ *described* in paragraph (a) of subsection 1.

3. *The Division may prescribe by regulation a process by which a person who has been convicted of a crime described in subparagraph (8) or (9) of paragraph (a) of subsection 1 may request the Division to set aside the conviction when determining whether the person is eligible to hold a license, be employed by a facility, hospital, agency, program or home or provide services as an employee of a temporary employment service or an independent contractor in a facility, hospital, agency, program or home.*

4. As used in this section:

(a) "Domestic violence" means an act described in NRS 33.018.

(b) "Facility, hospital, agency, program or home" has the meaning ascribed to it in NRS 449.119.

(c) "Medicaid" has the meaning ascribed to it in NRS 439B.120.

(d) "Medicare" has the meaning ascribed to it in NRS 439B.130.

Sec. 3. NRS 449.4329 is hereby amended to read as follows:

449.4329 1. Except as otherwise provided in subsections 2 and 3, within 10 days after hiring an employee, accepting an employee of a temporary employment service or entering into a contract with an independent contractor, the holder of a certificate to operate an intermediary service organization shall:

(a) Obtain a written statement from the employee, employee of the temporary employment service or independent contractor stating whether he or she has been convicted of any crime ~~[listed]~~ *described* in subsection 1 of NRS 449.4332;

(b) Obtain an oral and written confirmation of the information contained in the written statement obtained pursuant to paragraph (a);

(c) Obtain proof that the employee, employee of the temporary employment service or independent contractor holds any required license, permit or certificate;

(d) Obtain from the employee, employee of the temporary employment service or independent contractor one set of fingerprints and a written authorization 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;

(e) Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (d) to obtain information on the background and personal history of each employee, employee of a temporary employment service or independent contractor to determine whether the person has been convicted of any crime ~~[listed]~~ *described* in subsection 1 of NRS 449.4332; and



(f) If an Internet website has been established pursuant to NRS 439.942:

(1) Screen the employee, employee of the temporary employment service or independent contractor using the Internet website. Upon request of the Division, proof that the employee, temporary employee or independent contractor was screened pursuant to this subparagraph must be provided to the Division.

(2) Enter on the Internet website information to be maintained on the website concerning the employee, employee of the temporary employment service or independent contractor.

2. The holder of a certificate to operate an intermediary service organization is not required to obtain the information described in subsection 1 from an employee, employee of a temporary employment service or independent contractor if his or her fingerprints have been submitted to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report within the immediately preceding 6 months and the report of the Federal Bureau of Investigation indicated that the employee, employee of the temporary employment service or independent contractor has not been convicted of any crime ~~{set forth}~~ *described* in subsection 1 of NRS 449.4332.

3. The holder of a certificate to operate an intermediary service organization is not required to obtain the information described in subsection 1, other than the information described in paragraph (c) of subsection 1, from an employee, employee of a temporary employment service or independent contractor if:

(a) The employee, employee of the temporary employment service or independent contractor agrees to allow the holder of a certificate to operate an intermediary service organization to receive notice from the Central Repository for Nevada Records of Criminal History regarding any conviction and subsequent conviction of the employee, employee of the temporary employment service or independent contractor of a crime ~~{listed}~~ *described* in subsection 1 of NRS 449.4332;

(b) An agency, board or commission that regulates an occupation or profession pursuant to title 54 of NRS or temporary employment service has, within the immediately preceding 5 years, submitted the fingerprints of the employee, employee of the temporary employment service or independent contractor to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(c) The report of the Federal Bureau of Investigation indicated that the employee, employee of the temporary employment service or independent contractor ~~{has}~~ :



(1) *Has* not been convicted of any crime ~~[set forth]~~ *described* in subsection 1 of NRS 449.4332 ~~[]~~; *or*

(2) *Has been convicted of such a crime and the conviction has been set aside pursuant to subsection 2 of NRS 449.4332.*

4. The holder of a certificate to operate an intermediary service organization shall ensure that the information concerning the background and personal history of each employee, employee of a temporary employment service or independent contractor who works at or for the intermediary service organization is investigated is completed as soon as practicable and at least once every 5 years after the date of the initial investigation. The holder of the certificate shall, when required:

(a) Obtain one set of fingerprints from the employee, employee of the temporary employment service or independent contractor;

(b) Obtain written authorization from the employee, employee of the temporary employment service or independent contractor to forward the fingerprints obtained pursuant to paragraph (a) to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(c) Submit the fingerprints to the Central Repository for Nevada Records of Criminal History or, if the fingerprints were submitted electronically, obtain proof of electronic submission of the fingerprints to the Central Repository for Nevada Records of Criminal History.

5. Upon receiving fingerprints submitted pursuant to this section, the Central Repository for Nevada Records of Criminal History shall determine whether the employee, employee of the temporary employment service or independent contractor has been convicted of a crime ~~[listed]~~ *described* in subsection 1 of NRS 449.4332 and immediately inform the Division and the holder of the certificate to operate an intermediary service organization for which the person works whether the employee, employee of the temporary employment service or independent contractor has been convicted of such a crime.

6. The Central Repository for Nevada Records of Criminal History may impose a fee upon an intermediary service organization that submits fingerprints pursuant to this section for the reasonable cost of the investigation. The intermediary service organization may recover from the employee or independent contractor whose fingerprints are submitted not more than one-half of the fee imposed by the Central Repository. If the intermediary service organization requires the employee or independent contractor to pay for any part of the fee imposed by the Central Repository, it shall allow the employee or independent contractor to pay the amount through periodic payments. The intermediary service organization may



1 require a temporary employment service which employs a
2 temporary employee whose fingerprints are submitted to pay the fee
3 imposed by the Central Repository. An intermediary service
4 organization shall notify a temporary employment service if a
5 person employed by the temporary employment service is
6 determined to be ineligible to provide services to the intermediary
7 service organization based upon the results of an investigation
8 conducted pursuant to this section.

9 7. Unless a greater penalty is provided by law, a person who
10 willfully provides a false statement or information in connection
11 with an investigation of the background and personal history of the
12 person pursuant to this section that would disqualify the person from
13 employment, including, without limitation, a conviction of a crime
14 ~~listed~~ *described* in subsection 1 of NRS 449.4332, is guilty of a
15 misdemeanor.

16 **Sec. 4.** NRS 449.4331 is hereby amended to read as follows:

17 449.4331 1. Upon receiving information from the Central
18 Repository for Nevada Records of Criminal History pursuant to
19 NRS 449.4329, or evidence from any other source, that an
20 employee, employee of a temporary employment service or
21 independent contractor of an intermediary service organization has
22 been convicted of a crime ~~listed~~ *described* in subsection 1 of NRS
23 449.4332, *unless the conviction has been set aside pursuant to*
24 *subsection 2 of NRS 449.3332*, the holder of the certificate to
25 operate the intermediary service organization shall terminate the
26 employment or contract of that person or notify the temporary
27 employment service that its employee is prohibited from providing
28 services for the intermediary service organization after allowing the
29 person time to correct the information as required pursuant to
30 subsection 2.

31 2. If an employee, employee of a temporary employment
32 service or independent contractor believes that the information
33 provided by the Central Repository is incorrect, the employee,
34 employee of the temporary employment service or independent
35 contractor may immediately inform the intermediary service
36 organization. The intermediary service organization that is so
37 informed shall give the employee, employee of the temporary
38 employment service or independent contractor a reasonable amount
39 of time of not less than 30 days to correct the information received
40 from the Central Repository before terminating the employment or
41 contract of the person pursuant to subsection 1.

42 3. An intermediary service organization that has complied with
43 NRS 449.4329 may not be held civilly or criminally liable based
44 solely upon the ground that the intermediary service organization



1 allowed an employee, employee of a temporary employment service
2 or independent contractor to work:

3 (a) Before it received the information concerning the employee,
4 employee of the temporary employment service or independent
5 contractor from the Central Repository;

6 (b) During the period required pursuant to subsection 2 to allow
7 the employee, employee of the temporary employment service or
8 independent contractor to correct that information;

9 (c) Based on the information received from the Central
10 Repository, if the information received from the Central Repository
11 was inaccurate; or

12 (d) Any combination thereof.

13 ➤ An intermediary service organization may be held liable for any
14 other conduct determined to be negligent or unlawful.

15 **Sec. 5.** NRS 449.4332 is hereby amended to read as follows:

16 449.4332 **1.** In addition to the grounds listed in NRS
17 449.4321, the Division may deny a certificate to operate an
18 intermediary service organization to an applicant or may suspend or
19 revoke a certificate of a holder of a certificate to operate an
20 intermediary service organization if:

21 ~~[H-]~~ (a) The applicant for or holder of the certificate has been
22 convicted of ~~[-]~~:

23 ~~—(a) Murder, voluntary manslaughter or mayhem;~~

24 ~~—(b) Assault with intent to kill or to commit sexual assault or~~
25 ~~mayhem;~~

26 ~~—(c) Sexual assault, statutory sexual seduction, incest, lewdness~~
27 ~~or indecent exposure, or any other sexually related crime that is~~
28 ~~punished as a felony;~~

29 ~~—(d) Prostitution, solicitation, lewdness or indecent exposure, or~~
30 ~~any other sexually related crime that is punished as a misdemeanor,~~
31 ~~if the conviction occurred within the immediately preceding 7 years;~~

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

33 ~~—(f) A violation of any federal or state law regulating the~~
34 ~~possession, distribution or use of any controlled substance or any~~
35 ~~dangerous drug as defined in chapter 454 of NRS, within the past 7~~
36 ~~years;~~

37 ~~—(g) A violation of any provision of NRS 200.5099 or 200.50995;~~

38 ~~—(h) Any offense involving fraud, theft, embezzlement, burglary,~~
39 ~~robbery, fraudulent conversion or misappropriation of property,~~
40 ~~within the immediately preceding 7 years; or~~

41 ~~—(i) Any other felony involving the use of a firearm or other~~
42 ~~deadly weapon, within the immediately preceding 7 years;]~~ **a crime**
43 **described in paragraph (a) of subsection 1 of NRS 449.174; or**



~~[2.]~~ (b) The holder of a certificate has continued to employ a person who has been convicted of *such* a crime . ~~Listed in subsection 1.]~~

2. The Division may prescribe by regulation a process by which a person who has been convicted of a crime described in subparagraph (8) or (9) of paragraph (a) of subsection 1 of NRS 449.174 may request the Division to set aside the conviction when determining whether the person is eligible to:

(a) Hold a certificate to operate an intermediary service organization; or

(b) Serve as an employee, employee of a temporary employment service or independent contractor of an intermediary service organization.

Sec. 6. NRS 432A.160 is hereby amended to read as follows:

432A.160 1. Except as otherwise provided in this section, the Division may issue a provisional license, effective for a period not exceeding 1 year, to a child care facility which:

(a) Is in operation at the time of adoption of standards and other regulations pursuant to the provisions of this chapter, if the Division determines that the facility requires a reasonable time under the particular circumstances, not to exceed 1 year from the date of the adoption, within which to comply with the standards and other regulations;

(b) Has failed to comply with the standards and other regulations, if the Division determines that the facility is in the process of making the necessary changes or has agreed to effect the changes within a reasonable time; or

(c) Is in the process of applying for a license, if the Division determines that the facility requires a reasonable time within which to comply with the standards and other regulations.

2. The provisions of subsection 1 do not require the issuance of a license or prevent the Division from refusing to renew or from revoking or suspending any license in any instance where the Division considers that action necessary for the health and safety of the occupants of any facility or the clients of any outdoor youth program.

3. A provisional license must not be issued pursuant to this section unless the Division has completed an investigation into the qualifications and background of the applicant and the employees of the applicant pursuant to NRS 432A.170 to ensure that the applicant and each employee of the applicant, or every resident of the 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 any outdoor youth program who is 18 years of age or older, has not ~~been~~:



(a) *Been* convicted of a crime ~~[listed]~~ *described* in subsection 2 of NRS 432A.170, *unless the conviction has been set aside pursuant to subsection 7 of that section;* and ~~[has not had]~~

(b) *Had* a substantiated report of child abuse or neglect made against him or her.

Sec. 7. 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. Subject to the provisions of subsection ~~[7.]~~ 8, the Division shall secure from appropriate law enforcement agencies information on the background and personal history of every applicant, licensee, operator of a small child care establishment, employee of an applicant, licensee or small child care establishment, *independent contractor who has unsupervised contact with children at a child care facility*, 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) Any crime against a child, including, without limitation, abuse, neglect or endangerment of a child, contributory delinquency or pornography involving a minor;

(f) 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, *other than marijuana*, or any dangerous drug



as defined in chapter 454 of NRS within the immediately preceding 5 years;

(k) *Any offense relating to the possession or use of marijuana that is punishable as a felony within the immediately preceding 5 years;*

(l) Any offense relating to the distribution or manufacture of any controlled substance, *other than marijuana*, or any dangerous drug as defined in chapter 454 of NRS, including, without limitation, possession of a controlled substance for the purpose of sale;

~~[(h)]~~ (m) *Any offense relating to the distribution or manufacture of marijuana, including, without limitation, possession of marijuana for the purpose of sale, that is punishable as a felony;*

(n) *If the applicant or licensee is an agency or political subdivision of this State, any offense relating to the distribution or manufacture of marijuana, including, without limitation, possession of marijuana for the purpose of sale;*

(o) 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;

~~[(m)]~~ (p) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years;

~~[(n)]~~ (q) A crime that constitutes domestic violence pursuant to NRS 33.018;

~~[(o)]~~ (r) A violation of NRS 484C.430; or

~~[(p)]~~ (s) A violation of NRS 484C.110 or 484C.120 within the immediately preceding 5 years.

3. Subject to the provisions of subsection ~~[(7)]~~ 8, the Division shall request information concerning every applicant, licensee, operator of a small child care establishment, employee of an applicant, licensee or small child care establishment, *independent contractor who has unsupervised contact with children at a child care facility*, 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 its report concerning a conviction in this State of any of the crimes set forth in subsection 2 and 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, licensee or small child care establishment, *independent contractor who has unsupervised contact with children at a child care facility*, 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 for an initial background check not later than 3 days after the employee is hired, *the independent contractor begins serving as an independent contractor*, the residency begins or the participant begins participating in the program and before the employee, *independent contractor*, resident or participant has direct contact with any child at the child care facility, 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 Division may prescribe by regulation a process by which a person who has been convicted of a crime described in paragraph (l) or (m) of subsection 2 may request that the Division set aside the conviction when determining whether the person is eligible to hold a license, be employed by a licensee or small child care establishment, serve as an independent contractor who has unsupervised contact with children at a child care facility, reside in a child care facility or small child care establishment or participate in an outdoor youth program.*

8. The provisions of subsections 2, 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 NRS 432A.1756.

Sec. 8. 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, operator of a small child care establishment, employee of an applicant, licensee or small child care establishment, *independent contractor who has unsupervised contact with children at a child care facility*, 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) 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 its report and for submission to the Federal Bureau of Investigation for its report;

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

(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) If an employee of an applicant for a license to operate a child care facility, licensee or small child care establishment, *an independent contractor who has unsupervised contact with children at a child care facility*, 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~~ *described* in subsection 2 of NRS 432A.170, *unless the conviction has been set aside pursuant to subsection 7 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, licensee or small child care establishment who shall then comply with the provisions of NRS 432A.1755.

(c) An applicant for a license to operate a child care facility, licensee or operator of a small child care establishment shall notify the Division as soon as practicable but not later than 24 hours after



1 hiring an employee, beginning the residency of a resident who is 18
2 years of age or older, other than a resident who remains under the
3 jurisdiction of a court pursuant to NRS 432B.594, or beginning the
4 participation of a participant in an outdoor youth program who is 18
5 years of age or older. *An applicant for a license to operate a child
6 care facility or licensee shall notify the Division as soon as
7 practicable but not later than 24 hours after retaining an
8 independent contractor who has unsupervised contact with
9 children.*

10 (d) An employee of an applicant for a license to operate a child
11 care facility, licensee or operator of a small child care establishment
12 *or an independent contractor of an applicant for a license to
13 operate a child care facility or licensee* shall notify the applicant,
14 licensee or operator, *as applicable*, not later than 24 hours after:

15 (1) Being charged with or convicted of a crime ~~listed~~
16 *described* in subsection 2 of NRS 432A.170;

17 (2) Receiving notice that he or she is the subject of an
18 investigation for child abuse or neglect; or

19 (3) Receiving notice that a report of abuse or neglect has
20 been substantiated against him or her.

21 (e) A resident of a child care facility or small child care
22 establishment who is 18 years of age or older, other than a resident
23 who remains under the jurisdiction of a court pursuant to NRS
24 432B.594, or participant in an outdoor youth program who is 18
25 years of age or older shall notify the licensee of the child care
26 facility, operator of the small child care establishment or outdoor
27 youth program, as applicable, not later than 24 hours after:

28 (1) Being charged with or convicted of a crime ~~listed~~
29 *described* in paragraph (b);

30 (2) Receiving notice that he or she is the subject of an
31 investigation for child abuse or neglect; or

32 (3) Receiving notice that a report of abuse or neglect has
33 been substantiated against him or her.

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

37 (1) The applicant, licensee or operator, an employee of the
38 applicant, licensee or small child care establishment, *an
39 independent contractor who has unsupervised contact with
40 children at a child care facility*, a resident of the child care facility
41 or small child care establishment who is 18 years of age or older,
42 other than a resident who remains under the jurisdiction of a court
43 pursuant to NRS 432B.594, or participant in an outdoor youth
44 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) The applicant, licensee or operator or an employee, *an independent contractor*, a resident or a participant has been charged with a crime ~~listed~~ *described* 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 NRS 432A.1756.

3. The Division shall adopt regulations to establish civil penalties to be imposed against any person, state or local government unit or agency thereof that fails to comply with the requirements of this section.

Sec. 9. NRS 432A.1755 is hereby amended to read as follows:

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

(a) Except as otherwise provided in *this paragraph and* paragraph (c), 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 from an employee of an applicant for a license to operate a child care facility, a licensee or a small child care establishment, *an independent contractor who has unsupervised contact with children at a child care facility*, 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 or from any other source that such an employee, *independent contractor*, resident or participant has been convicted of a crime ~~listed~~ *described* in subsection 2 of NRS 432A.170 , *unless the conviction has been set aside pursuant to subsection 7 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 the service of the independent contractor* or remove the resident from the facility or establishment or participant from the outdoor youth program after allowing the employee, *independent contractor*, resident or participant time to correct the information as required pursuant to paragraph (b).

(b) If an employee, *independent contractor*, resident or participant believes that the information provided to the applicant, licensee or operator pursuant to paragraph (a) is incorrect, the



employee, *independent contractor*, resident or participant must inform the applicant, licensee or operator immediately. The applicant, licensee or operator shall give any such employee, *independent contractor*, resident or participant 30 days to correct the information.

(c) 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, a licensee or operator of a small child care establishment, *an independent contractor who has unsupervised contact with children at a child care facility*, 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~~ *described* 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 or establishment, as applicable, despite the conviction. Any such review must be conducted in a manner which does not discriminate against a person in violation of 42 U.S.C. § 2000e et seq.

(d) If a process for review is established pursuant to paragraph (c), an employee, *independent contractor*, resident or participant, as applicable, may request such a review in the manner established by the Division. Any determination made by the Division is final for purposes of judicial review.

(e) During any period in which an employee, *independent contractor*, resident or participant seeks to correct information pursuant to paragraph (b) or requests a review of information pursuant to paragraph (d), it is within the discretion of the applicant, licensee or operator whether to allow the employee, *independent contractor*, 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 NRS 432A.1756.

3. The Division shall adopt regulations to establish civil penalties to be imposed against any person, state or local government unit or agency thereof that fails to comply with the requirements of this section.



Sec. 10. NRS 432A.1756 is hereby amended to read as follows:

432A.1756 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~~ *described* in subsection 2 of NRS 432A.170 , *unless the conviction has been set aside pursuant to subsection 7 of that section*, or has had a substantiated report of child abuse or neglect made against him or her.

Sec. 10.3. NRS 432A.176 is hereby amended to read as follows:

432A.176 1. ~~[A]~~ *Except as otherwise provided in this section, a* licensee of a child care facility shall ensure that an employee of the child care facility is in the presence of an independent contractor retained by the child care facility during any period in which the independent contractor is performing any services at the child care facility when a child is present.

2. The employee of the child care facility who is required to be in the presence of the independent contractor pursuant to subsection 1:

(a) Must be qualified to supervise the children at the child care facility; and

(b) Shall, during the period for which the independent contractor is performing the services at the child care facility, supervise and ensure the safety of each child at the child care facility.

3. The provisions of this section do not apply to an independent contractor who complies with the requirements of NRS 432A.175 and 432A.1776 and receives any additional training required by regulation of the Board.



Sec. 10.6. NRS 432A.1776 is hereby amended to read as follows:

432A.1776 Each person who is employed in a child care facility *and each independent contractor who has unsupervised contact with children at a child care facility* shall complete at least 2 hours of training in the recognition and reporting of the abuse or neglect of a child, as defined in NRS 432B.020:

1. Within 90 days after commencing his or her employment *or service as an independent contractor* in a child care facility; and

2. At least once every 5 years thereafter.

Sec. 11. NRS 432A.190 is hereby amended to read as follows:

432A.190 1. The Division may deny an application for a license to operate a child care facility or may suspend or revoke such a license upon any of the following grounds:

(a) Violation by the applicant or licensee or an employee of the applicant or licensee of any of the provisions of this chapter or of any other law of this State or of the standards and other regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the child care facility for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the child care facility, or the clients of the outdoor youth program.

(e) Conviction of any crime ~~listed~~ *described* in subsection 2 of NRS 432A.170 committed by the applicant or licensee or an employee of the applicant or licensee, or by a resident of the child care facility or participant in the outdoor youth program who is 18 years of age or older ~~[-], except for a conviction that has been set aside pursuant to subsection 7 of NRS 432A.170.~~

(f) Failure to comply with the provisions of NRS 432A.178.

(g) Substantiation of a report of child abuse or neglect made against the applicant or licensee.

(h) Conduct which is found to pose a threat to the health or welfare of a child or which demonstrates that the applicant or licensee is otherwise unfit to work with children.

(i) Violation by the applicant or licensee of the provisions of NRS 432A.1755 by continuing to employ a person, allowing 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, to continue to reside in the child care facility or allowing a participant in an outdoor youth program to continue to participate in



the program if the employee, or the resident or participant who is 18 years of age or older, has ~~been~~:

(1) *Been* convicted of a crime ~~listed~~ *described* in subsection 2 of NRS 432A.170, *unless that conviction has been set aside pursuant to subsection 7 of that section;* or ~~has had~~

(2) *Had* a substantiated report of child abuse or neglect made against him or her.

2. In addition to the provisions of subsection 1, the Division may revoke a license to operate a child care facility if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Division shall maintain a log of any complaints that it receives relating to activities for which the Division may revoke the license to operate a child care facility pursuant to subsection 2. The Division shall provide to a child care facility:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Division either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.
➔ The facility shall make the information available to the public pursuant to NRS 432A.178.

4. In addition to any other disciplinary action, the Division may impose an administrative fine for a violation of any provision of this chapter or any regulation adopted pursuant thereto. The Division shall afford to any person so fined an opportunity for a hearing. Any money collected for the imposition of such a fine must be credited to the State General Fund.

Sec. 12. NRS 432A.720 is hereby amended to read as follows:
432A.720 1. ~~Upon~~ *Except as otherwise provided in this subsection, upon* receiving the results of the background and personal history check performed pursuant to subsection 1 of NRS 432A.710, the results of the child abuse and neglect screening pursuant to subsection 2 of NRS 432A.710 or evidence from any other source that a staff member of a person who operates a program that primarily functions as a seasonal or temporary recreation program has been convicted of a crime ~~listed~~ *described* in



subsection 2 of NRS 432A.170, *unless the conviction has been set aside pursuant to subsection 4* or has had a substantiated report of child abuse or neglect made against him or her, the person shall terminate the employment of the staff member after allowing the staff member time to correct the information as required pursuant to subsection 2.

2. If a staff member believes that the information provided to the person who operates a program that primarily functions as a seasonal or temporary recreation program pursuant to subsection 1 is incorrect, the staff member must inform the person immediately. The person shall give any such staff member 30 days to correct the information.

3. During any period in which a staff member seeks to correct information pursuant to subsection 2, it is within the discretion of the person who operates a program that primarily functions as a seasonal or temporary recreation program whether to allow the staff member to continue to work for the program, except that the staff member shall not have contact with a child without supervision during such a period.

4. *The Division may prescribe by regulation a process by which a person who has been convicted of a crime described in paragraph (l) or (m) of subsection 2 of NRS 432A.170 may request the Division to set aside the conviction when determining whether the person is eligible to serve as a staff member of a program that primarily functions as a seasonal or temporary recreation program.*

Sec. 13. This act becomes effective on July 1, 2019.

